

## **EXHIBIT 1**

**CONDENSED COPY**

1 IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

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JEFFREY McCANTS :

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V. : C.A. NO. 04-

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## WAWA, INC.

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November 1, 2004

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## LOVE COURT REPORTING, INC.

1500 Market Street

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12th Floor - East Tower

Philadelphia, Pennsylvania 19102

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(215) 568-5599

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| <p style="text-align: right;">Page 38</p> <p>1   <b>What were you going to be selling?</b><br/>     2    A. Toiletries, fragrances.<br/>     3   <b>Q. Was this an outside sales</b><br/>     4   <b>job? Do you know what that means?</b><br/>     5    A. No.<br/>     6   <b>Q. Was it a job that you were</b><br/>     7   <b>going to report to an office? Did you have</b><br/>     8   <b>an office for the job or were you going to</b><br/>     9   <b>work out of your home doing sales?</b><br/>     10   A. I don't remember.<br/>     11   <b>Q. Where is Products, Inc.</b><br/>     12   <b>located?</b><br/>     13    A. I believe in New Castle.<br/>     14   <b>Q. Did you look for any jobs in</b><br/>     15   <b>the retail sector when you left Wawa?</b><br/>     16    A. Yes.<br/>     17   <b>Q. What specific companies did</b><br/>     18   <b>you consider if you considered retail</b><br/>     19   <b>companies?</b><br/>     20    A. KFC.<br/>     21   <b>Q. Is that Kentucky Fried</b><br/>     22   <b>Chicken?</b><br/>     23    A. Yes.<br/>     24   <b>Q. Was that managing a franchise?</b></p> | <p style="text-align: right;">Page 40</p> <p>1   <b>Q. What is this document? Is it</b><br/>     2   <b>the Complaint you filed in this case?</b><br/>     3    A. Yes.<br/>     4   <b>Q. Did you review this document</b><br/>     5   <b>before your lawyer filed it?</b><br/>     6    MR. ABER: Objection. I<br/>     7       instruct the witness not to answer.<br/>     8   BY MS. BILENKER:<br/>     9       <b>Q. I'll ask a different</b><br/>     10      <b>question. Would you turn to page 2, Mr.</b><br/>     11      <b>McCants. Paragraphs 7 through 14 are your</b><br/>     12      <b>factual allocations in this case. Do you</b><br/>     13      <b>see how the sentences are numbered?</b><br/>     14      A. These pages are not numbered.<br/>     15      <b>Q. No; the paragraphs. Us</b><br/>     16      <b>lawyers, we call them numbered paragraphs,</b><br/>     17      <b>but they're really just sentences that are</b><br/>     18      <b>numbered in an outline format.</b><br/>     19      A. You said page 2.<br/>     20      <b>Q. Well, the second page. You're</b><br/>     21      <b>right. They're not numbered. The second</b><br/>     22      <b>page. You're looking at numbers 7 through</b><br/>     23      <b>14. Those are the paragraphs I want you to</b><br/>     24      <b>focus on. Those are your factual</b></p> |
| <p style="text-align: right;">Page 39</p> <p>1    A. Yes.<br/>     2   <b>Q. Is it a franchise run</b><br/>     3   <b>business?</b><br/>     4    A. It was a manager's position.<br/>     5   <b>Q. Where was the store located?</b><br/>     6    A. I don't remember.<br/>     7   <b>Q. Did you get that job?</b><br/>     8    A. No.<br/>     9   <b>Q. You didn't get a job offer?</b><br/>     10   A. No.<br/>     11   <b>Q. Do you know why?</b><br/>     12   A. No.<br/>     13    - - -<br/>     14    (Whereupon, Exhibit McCants-4 was<br/>     15    marked for identification.)<br/>     16    - - -<br/>     17   BY MS. BILENKER:<br/>     18   <b>Q. Mr. McCants, I'm showing you</b><br/>     19   <b>Exhibit 4. This is the Complaint you filed</b><br/>     20   <b>in this case or your lawyer filed on your</b><br/>     21   <b>behalf. Is this, in fact, the Complaint</b><br/>     22   <b>that you filed in this case? Have you ever</b><br/>     23   <b>seen this document before?</b><br/>     24    A. Yes.</p>   | <p style="text-align: right;">Page 41</p> <p>1   <b>allegations in this case. I would like to</b><br/>     2   <b>go through these, and I want to know what</b><br/>     3   <b>the basis is for your making these</b><br/>     4   <b>allegations. Paragraph 7, you began</b><br/>     5   <b>employment with Wawa on or about October</b><br/>     6   <b>10, 1997. On October 10, 1997. Is that</b><br/>     7   <b>accurate?</b><br/>     8    A. Yes.<br/>     9   <b>Q. Then you allege that beginning</b><br/>     10   <b>in November, 2001, while working in a</b><br/>     11   <b>facility owned by the defendant, you were</b><br/>     12   <b>denied a promotional opportunity to be</b><br/>     13   <b>given a position as a manager at a gas</b><br/>     14   <b>store. What gas store are you referring</b><br/>     15   <b>to?</b><br/>     16    A. Gas store at 840.<br/>     17   <b>Q. So you're alleging that you</b><br/>     18   <b>applied for a position as manager of 840,</b><br/>     19   <b>and that would have been a promotion for</b><br/>     20   <b>you, and you didn't get the promotion. Is</b><br/>     21   <b>that your allegation?</b><br/>     22    A. Repeat that please.<br/>     23   <b>Q. In this allegation, are you</b><br/>     24   <b>saying that you applied for a gas store</b></p>                                   |

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| <p style="text-align: right;">Page 42</p> <p>1 manager position which would have been a<br/>2 promotion for you, but you didn't get the<br/>3 promotion?<br/>4 A. Is that two questions?<br/>5 Q. Did you apply for a gas store<br/>6 manager position at 840?<br/>7 A. Yes.<br/>8 Q. Did you get the job?<br/>9 A. No.<br/>10 Q. The next allegation, you say<br/>11 that the person who got, meaning "gas<br/>12 store" is 840 was a white person?<br/>13 A. Is this based on number 9?<br/>14 Q. Yes. Let me rephrase. What's<br/>15 the basis for your allegation number 9?<br/>16 A. The position was given to a<br/>17 Caucasian individual.<br/>18 Q. How do you know that?<br/>19 A. It was told to me by my<br/>20 supervisor.<br/>21 Q. Who is your supervisor?<br/>22 A. John Poplawski.<br/>23 Q. Do you know the name of the<br/>24 person who you're referring to? The</p> | <p style="text-align: right;">Page 44</p> <p>1 were ready when you called John?<br/>2 A. I didn't know.<br/>3 Q. What did John tell you during<br/>4 that conversation?<br/>5 A. That I didn't get the gas<br/>6 store.<br/>7 Q. Did he tell you why?<br/>8 A. No.<br/>9 Q. He didn't give you a reason?<br/>10 A. No.<br/>11 Q. What else did he say?<br/>12 A. I didn't get the store.<br/>13 Q. Did he tell you who got the<br/>14 store —<br/>15 A. Yes.<br/>16 Q. — during that conversation?<br/>17 A. Yes.<br/>18 Q. So you learned it was George<br/>19 Sheldon during that conversation with John<br/>20 Poplawski?<br/>21 A. Yes.<br/>22 Q. How long was that<br/>23 conversation?<br/>24 A. I don't remember.</p>  |
| <p style="text-align: right;">Page 43</p> <p>1 Caucasian individual you're referring to?<br/>2 A. George Sheldon.<br/>3 Q. How do you know that? From<br/>4 John Poplawski?<br/>5 A. Yes.<br/>6 Q. Did you ever talk to George<br/>7 Sheldon about the job?<br/>8 A. No.<br/>9 Q. When did John Poplawski tell<br/>10 you that the job went to George Sheldon?<br/>11 A. I believe the next day after<br/>12 the interviews.<br/>13 Q. Was that in person or over the<br/>14 phone?<br/>15 A. Over the phone.<br/>16 Q. Did you call John or did John<br/>17 call you?<br/>18 A. I called him.<br/>19 Q. Why did you call him?<br/>20 A. I wanted to know the results.<br/>21 Q. What time of day was it when<br/>22 you called him?<br/>23 A. At night.<br/>24 Q. How did you know the results</p>  | <p style="text-align: right;">Page 45</p> <p>1 Q. Did you discuss anything else<br/>2 during that conversation with John<br/>3 Poplawski?<br/>4 A. Don't remember.<br/>5 Q. Will you look at paragraph 10<br/>6 please, Mr. McCants, and tell me what the<br/>7 basis of that allegation is?<br/>8 A. Your question is?<br/>9 Q. What's the basis for this<br/>10 allegation that because of the denial of<br/>11 the promotion, you complained to John<br/>12 Poplawski about a lack of diversity and<br/>13 opportunities for minority employees? Are<br/>14 you alleging that you filed a grievance<br/>15 with Wawa? What's your basis of this<br/>16 allegation?<br/>17 A. I met with Mr. Poplawski at<br/>18 store 825 after finding out I didn't get<br/>19 the store. And, at the time, there were no<br/>20 black gas store managers and I asked them<br/>21 about the lack of diversity.<br/>22 Q. Anything else?<br/>23 A. No.<br/>24 Q. How do you know there were no</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 black gas store managers at that time? Did<br/>2 you have firsthand knowledge that there<br/>3 were no black gas store managers at the<br/>4 time?</p> <p>5 A. Rephrase the question.</p> <p>6 Q. Do you have firsthand<br/>7 knowledge that there were no black gas<br/>8 store managers at the time?</p> <p>9 A. In my area, there was no black<br/>10 managers.</p> <p>11 Q. What is your area?</p> <p>12 A. It's considered area 8.</p> <p>13 Q. What does that area cover?</p> <p>14 What geographic region?</p> <p>15 A. I believe Wilmington, New<br/>16 Castle, Newark and Claymont.</p> <p>17 Q. Did you know for sure there<br/>18 were no gas store managers in your area at<br/>19 the time? Did you know that for sure<br/>20 because you were certain about that?</p> <p>21 A. Yes.</p> <p>22 Q. You were certain about it?</p> <p>23 A. Yes.</p> <p>24 Q. Did you tell Mr. Poplawski</p> | <p style="text-align: right;">Page 48</p> <p>1 Q. Do you think that to achieve<br/>2 diversity, if you are not qualified for<br/>3 that job, Wawa should have given it to you<br/>4 anyway?</p> <p>5 A. Repeat.</p> <p>6 Q. In an effort to achieve<br/>7 diversity, do you think you should have<br/>8 gotten the job? By you getting that gas<br/>9 store manager job, in your opinion, does<br/>10 that make Wawa more diverse?</p> <p>11 A. No.</p> <p>12 Q. What do you mean by diversity<br/>13 then? What did you mean by your comment to<br/>14 Mr. Poplawski? Just that there weren't any<br/>15 other gas store managers who were black at<br/>16 the time?</p> <p>17 A. Yes. And black managers and<br/>18 upper management outside of the stores.</p> <p>19 Q. Did you say anything else to<br/>20 him about a lack of diversity, or was it<br/>21 just comments about upper management, other<br/>22 black gas store managers and other black<br/>23 manager at Wawa, that there wasn't<br/>24 diversity?</p> |
| <p style="text-align: right;">Page 47</p> <p>1 that the reason you didn't get the job was<br/>2 because you were black?</p> <p>3 A. No.</p> <p>4 Q. Did you tell Mr. Poplawski<br/>5 that there were no opportunities for<br/>6 minority employees at Wawa?</p> <p>7 A. No.</p> <p>8 Q. So your testimony is that you<br/>9 just said to him that there wasn't<br/>10 diversity?</p> <p>11 A. My question to him was -- to<br/>12 Mr. Poplawski was about diversity, and he<br/>13 said Wawa doesn't do a good job on<br/>14 diversity.</p> <p>15 Q. Did he say anything else?</p> <p>16 A. No.</p> <p>17 Q. That was it? That was all he<br/>18 said to you?</p> <p>19 A. That's all I remember.</p> <p>20 Q. How many days after your phone<br/>21 conversation with John Poplawski did this<br/>22 conversation in your store take place with<br/>23 him?</p> <p>24 A. I believe a couple days.</p>   | <p style="text-align: right;">Page 49</p> <p>1 A. Yes.</p> <p>2 Q. That was the extent of the<br/>3 conversation?</p> <p>4 MR. ABER: Can I have the last<br/>5 question read back again?<br/>-----<br/>7 (Whereupon, the requested<br/>8 portion of the notes of testimony<br/>9 was read by the court reporter.)<br/>10 -----<br/>11 MR. ABER: I object to the<br/>12 last --<br/>13 MS. BILENKER: Let me<br/>14 rephrase it.<br/>15 BY MS. BILENKER:<br/>16 Q. Did you think you didn't get<br/>17 the gas store manager job because of your<br/>18 race?</p> <p>19 A. Yes.</p> <p>20 Q. What is the basis for that<br/>21 belief?</p> <p>22 A. My belief at the time, to my<br/>23 knowledge, there were no black gas store<br/>24 managers or any black employees in the</p>   |

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| <p style="text-align: right;">Page 50</p> <p>1 corporate office in upper management.<br/>     2 Q. Anything else?<br/>     3 A. No.<br/>     4 Q. And I believe I already asked<br/>     5 you whether you knew for sure whether there<br/>     6 are no black gas store managers in your<br/>     7 area, and that is area 8, which you<br/>     8 testified was a portion of Delaware;<br/>     9 correct?<br/>     10 A. Yes.<br/>     11 Q. You don't have knowledge as to<br/>     12 whether there were black gas store managers<br/>     13 outside your area; correct?<br/>     14 A. Yes.<br/>     15 Q. And your belief that you<br/>     16 believe there were no black employees in<br/>     17 the corporate office or upper management,<br/>     18 do you know that for sure?<br/>     19 A. Rephrase the question.<br/>     20 Q. Do you know for sure that<br/>     21 there were no blacks in upper management or<br/>     22 working at Wawa corporate offices? Where<br/>     23 Wawa is headquartered; is that what you<br/>     24 mean when you say corporate office?</p>   | <p style="text-align: right;">Page 52</p> <p>1 Q. Did you intend to file a<br/>     2 grievance with Wawa for that during that<br/>     3 conversation? What was your point in<br/>     4 mentioning that to him?<br/>     5 A. To get a real -- at the time,<br/>     6 to get a real understanding outside of<br/>     7 saying I wasn't qualified, which I knew I<br/>     8 was, for the position. That's what<br/>     9 prompted that question.<br/>     10 Q. Did Mr. Poplawski ever say you<br/>     11 weren't qualified for the job?<br/>     12 A. I don't remember.<br/>     13 Q. He told that you George<br/>     14 Sheldon got the job?<br/>     15 A. Yes.<br/>     16 Q. Did he explain why George<br/>     17 Sheldon got the job?<br/>     18 A. I don't remember.<br/>     19 Q. Do you know anything about<br/>     20 George Sheldon's work history at Wawa?<br/>     21 A. No.<br/>     22 Q. If Wawa thought that George<br/>     23 Sheldon was more qualified than you, would<br/>     24 it be reasonable for them to hire George</p> |
| <p style="text-align: right;">Page 51</p> <p>1 A. At the time, I believe there<br/>     2 was one. There wasn't a great showing of<br/>     3 blacks in upper management.<br/>     4 Q. And my question to you is:<br/>     5 How do you know that for sure?<br/>     6 A. Through hearsay.<br/>     7 Q. Did you intend for your<br/>     8 conversation with John Poplawski that we<br/>     9 were talking about where you mentioned<br/>     10 diversity and John's response to you about<br/>     11 how Wawa should do a better job, that's<br/>     12 your testimony; right? Or that Wawa<br/>     13 doesn't do a good job?<br/>     14 A. Repeat that please.<br/>     15 Q. Your conversation with John<br/>     16 Poplawski that we talked about that was two<br/>     17 days following the phone conversation you<br/>     18 had with him where you said there was a<br/>     19 lack of diversity, and John's response to<br/>     20 you was Wawa could do a better job? Is<br/>     21 that your testimony?<br/>     22 A. I believe I said John<br/>     23 Poplawski stated that Wawa doesn't do a<br/>     24 great job of diversity.</p> | <p style="text-align: right;">Page 53</p> <p>1 Sheldon over you?<br/>     2 A. If it was based on<br/>     3 credentials.<br/>     4 Q. So the answer is yes?<br/>     5 A. If it was based on<br/>     6 credentials.<br/>     7 Q. If Wawa had an honest belief<br/>     8 that George Sheldon was more qualified<br/>     9 than you, would it be reasonable for them<br/>     10 to hire him over you to manage the gas<br/>     11 store?<br/>     12 A. If it was based on<br/>     13 credentials.<br/>     14 Q. And that's my question. If<br/>     15 Wawa honestly believed that George Sheldon<br/>     16 had more credentials than you or was more<br/>     17 qualified than you to manage the gas store,<br/>     18 and we're talking about 840, would it be<br/>     19 reasonable for them to hire him?<br/>     20 MR. ABER: Objection.<br/>     21 MS. BILENKER: What's the<br/>     22 objection?<br/>     23 MR. ABER: The definition of<br/>     24 honest.</p>   |

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| <p style="text-align: right;">Page 54</p> <p>1 BY MS. BILENKER:<br/>     2 Q. My question is very simple,<br/>     3 Mr. McCants. If Wawa believed that Mr.<br/>     4 Sheldon had more qualifications than you,<br/>     5 would it be reasonable for them to hire him<br/>     6 over you?<br/>     7 A. If it was based on<br/>     8 credentials.<br/>     9 Q. And that is part of my<br/>     10 question, that they believed he had more<br/>     11 credentials than you. Let's assume Wawa<br/>     12 believed George Sheldon was more<br/>     13 qualified, had more credentials, however<br/>     14 you want to state it, would it be<br/>     15 reasonable for them to hire him?<br/>     16 A. If it was based on<br/>     17 credentials.<br/>     18 Q. It's a yes or no answer.<br/>     19 MR. ABER: No, it isn't. It<br/>     20 does not have to be a yes or no<br/>     21 answer. He can answer it any way he<br/>     22 wants to.<br/>     23 MS. BILENKER: Well, I have my<br/>     24 answer.</p>                       | <p style="text-align: right;">Page 56</p> <p>1 applied for the gas store promotion?<br/>     2 (Telephone interruption.)<br/>     3 BY MS. BILENKER:<br/>     4 Q. Mr. McCants, did you hear my<br/>     5 last question?<br/>     6 A. Can you repeat it please?<br/>     7 Q. Isn't it true you don't know<br/>     8 the qualifications of anybody who applied<br/>     9 for that gas store position?<br/>     10 A. No.<br/>     11 Q. It's not true or is it true?<br/>     12 A. Repeat the question.<br/>     13 Q. My question is: There were<br/>     14 other people who applied for the gas store<br/>     15 position in addition to you? Do you know<br/>     16 who those people are?<br/>     17 A. Which store?<br/>     18 Q. We're talking about the gas<br/>     19 store promotion you applied for that you<br/>     20 allege in your complaint, 840.<br/>     21 A. 840?<br/>     22 Q. I believe it was Tom Grant,<br/>     23 George Sheldon, and George DeNuzio. Do<br/>     24 you know anything about their</p> |
| <p style="text-align: right;">Page 55</p> <p>1 BY MS. BILENKER:<br/>     2 Q. Let's assume that Mr. Sheldon<br/>     3 had worked in a gas store for 25 years.<br/>     4 Would it be reasonable for them to offer<br/>     5 him the job over you?<br/>     6 A. If it was based on<br/>     7 credentials.<br/>     8 Q. And part of the credentials<br/>     9 were he worked in a gas store before.<br/>     10 Would it be reasonable for them to think<br/>     11 that he had more credentials than you<br/>     12 managing a gas store?<br/>     13 A. I can't answer for Wawa.<br/>     14 Q. Do you think you were more<br/>     15 qualified than George Sheldon?<br/>     16 A. I was qualified for the<br/>     17 position.<br/>     18 Q. Do you think you were more<br/>     19 qualified or equally qualified or less<br/>     20 qualified than George Sheldon?<br/>     21 A. I don't know George's<br/>     22 qualifications.<br/>     23 Q. Is it true that you didn't<br/>     24 know the qualifications of anybody who</p> | <p style="text-align: right;">Page 57</p> <p>1 qualifications or work history with Wawa?<br/>     2 A. No.<br/>     3 Q. No; you don't know anything<br/>     4 about their qualifications and you don't<br/>     5 know anything about their work history?<br/>     6 A. No and no.<br/>     7 Q. I'll split the question up.<br/>     8 Do you know anything about their<br/>     9 qualifications?<br/>     10 A. No.<br/>     11 Q. And you don't know anything<br/>     12 about their work history --<br/>     13 A. No.<br/>     14 Q. -- at Wawa? If you turn to<br/>     15 the next page, Mr. McCants, you will see<br/>     16 that you start off alleging that on May 21,<br/>     17 2002, your Caucasian supervisor informed<br/>     18 you that you would be demoted. Who are you<br/>     19 referring to?<br/>     20 A. Joe Gallagher.<br/>     21 Q. How did Mr. Gallagher inform<br/>     22 you that you would be demoted?<br/>     23 A. In person.<br/>     24 Q. Where were you?</p>                               |

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| <p style="text-align: right;">Page 62</p> <p>1   <b>that you were going to be demoted.</b><br/>     2   A. I believe I asked about salary<br/>     3   on the phone conversation we had. I don't<br/>     4   remember asking then about salary.<br/>     5   <b>Q. A phone conversation when?</b><br/>     6   <b>After this meeting?</b><br/>     7   A. I believe so.<br/>     8   <b>Q. We'll get to a phone</b><br/>     9   <b>conversation. I want to know everything</b><br/>     10   <b>about this meeting with Mr. Gallagher at</b><br/>     11   <b>store 816 where you were notified that you</b><br/>     12   <b>were going to be demoted. Okay? So once</b><br/>     13   <b>we've exhausted this meeting, then we'll</b><br/>     14   <b>move to the phone conversation you just</b><br/>     15   <b>alluded to. All right? So --</b><br/>     16   A. Rephrase the question.<br/>     17   <b>Q. I just want to focus on this</b><br/>     18   <b>meeting, face-to-face meeting you had with</b><br/>     19   <b>Mr. Gallagher that you allege happened in</b><br/>     20   <b>your complaint.</b><br/>     21   A. Uh-huh.<br/>     22   <b>Q. You allege he notified you you</b><br/>     23   <b>were being demoted?</b><br/>     24   A. Uh-huh.</p>  | <p style="text-align: right;">Page 64</p> <p>1   <b>stepping down to pursue some other</b><br/>     2   <b>opportunities?</b><br/>     3   A. Don't remember.<br/>     4   <b>Q. Isn't it true that you thanked</b><br/>     5   <b>Mr. Gallagher for showing concern about</b><br/>     6   <b>you?</b><br/>     7   A. Don't remember.<br/>     8   <b>Q. Do you remember shaking his</b><br/>     9   <b>hand during that conversation?</b><br/>     10   A. I shake everybody's hand.<br/>     11   <b>Q. Do you remember giving him a</b><br/>     12   <b>hug during that conversation?</b><br/>     13   A. I might have because I'm a<br/>     14   Christian.<br/>     15   <b>Q. Well, would that be because</b><br/>     16   <b>you're a Christian or because you were</b><br/>     17   <b>thankful that he was giving you an</b><br/>     18   <b>opportunity to step back and retrain?</b><br/>     19   A. Because I'm a Christian.<br/>     20   <b>Q. So you hug everybody --</b><br/>     21   A. Yes; that wants to be --<br/>     22   <b>Q. -- for no reason?</b><br/>     23   A. Yes.<br/>     24   <b>Q. Isn't it true you told Mr.</b></p>      |
| <p style="text-align: right;">Page 63</p> <p>1   <b>Q. I just want to know what was</b><br/>     2   <b>discussed at that meeting. So I'm asking</b><br/>     3   <b>you if salary was discussed at that</b><br/>     4   <b>meeting?</b><br/>     5   A. I don't remember.<br/>     6   <b>Q. Then my next question to you</b><br/>     7   <b>was: Did you ask Mr. Gallagher what your</b><br/>     8   <b>salary was going to be as an assistant</b><br/>     9   <b>manager during that meeting?</b><br/>     10   A. I don't remember.<br/>     11   <b>Q. Isn't it true you told Mr.</b><br/>     12   <b>Gallagher during that meeting you were</b><br/>     13   <b>concerned about what other Wawa associates,</b><br/>     14   <b>especially the ones that work for you, were</b><br/>     15   <b>going to think about you stepping</b><br/>     16   <b>down -- thinking about you stepping down to</b><br/>     17   <b>assistant manager?</b><br/>     18   A. Don't remember.<br/>     19   <b>Q. Isn't it true you asked Mr.</b><br/>     20   <b>Gallagher if it would be okay if you</b><br/>     21   <b>couch the demotion as a resignation --</b><br/>     22   A. Don't remember.<br/>     23   <b>Q. -- to your staff? Isn't it</b><br/>     24   <b>true that you told your staff that you were</b></p> | <p style="text-align: right;">Page 65</p> <p>1   <b>Gallagher that some day, you were going to</b><br/>     2   <b>look back on this day and thank him for</b><br/>     3   <b>having this meeting? That the pressure was</b><br/>     4   <b>off?</b><br/>     5   A. No.<br/>     6   <b>Q. It's not true that you were</b><br/>     7   <b>appreciative that Mr. Gallagher was</b><br/>     8   <b>permitting you to step down as assistant</b><br/>     9   <b>manager so that the pressure and the stress</b><br/>     10   <b>of running a Wawa store on your own was</b><br/>     11   <b>going to be off?</b><br/>     12   A. No.<br/>     13   <b>Q. How did the conversation end?</b><br/>     14   A. I don't remember.<br/>     15   <b>Q. Is there anything else you</b><br/>     16   <b>want to add about that conversation? Or</b><br/>     17   <b>have you told me everything you can recall</b><br/>     18   <b>during that conversation?</b><br/>     19   MR. ABER: Objection.<br/>     20   MS. BILENKER: You can<br/>     21   answer.<br/>     22   THE WITNESS: Rephrase the<br/>     23   question please.<br/>     24   BY MS. BILENKER:</p> |

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| <p style="text-align: right;">Page 66</p> <p>1     <b>Q.</b> Are you telling me everything<br/>2 you can remember about that conversation<br/>3 with Joe Gallagher?<br/>4     A. Yes.<br/>5     <b>Q.</b> If you look at the next<br/>6 allegation, Mr. McCants?<br/>7     A. Which number?<br/>8     <b>Q.</b> 12. On May 31, you allege you<br/>9 were further retaliated against by<br/>10 management because another white supervisor<br/>11 and area manager said you were going to be<br/>12 assigned a low production store in<br/>13 Claymont, Delaware. Can you explain what<br/>14 you mean by this allegation?<br/>15     A. I believe there was a phone<br/>16 conversation between myself and Mr. Joe<br/>17 Gallagher in reference to the demotion. It<br/>18 was said that I was going to be demoted to<br/>19 store 801.<br/>20     <b>Q.</b> Did you call Mr. Gallagher or<br/>21 did Mr. Gallagher call you?<br/>22     A. I don't remember.<br/>23     <b>Q.</b> So you're saying that on May<br/>24 31, you had a phone conversation with Mr.</p> | <p style="text-align: right;">Page 68</p> <p>1 reference to what was going on.<br/>2     <b>Q.</b> What did you tell Mr.<br/>3 Shortall?<br/>4     A. I was asking or stating to him<br/>5 what was going on with the demotion, you<br/>6 know, what was the proof behind my<br/>7 demotion? What was going on? And he said<br/>8 he would get back to me, which he never did<br/>9 get back to me.<br/>10     <b>Q.</b> Did you subsequently meet with<br/>11 Mr. Gallagher?<br/>12     A. There was another meeting with<br/>13 Mr. Gallagher and Mr. Mike Stief.<br/>14     <b>Q.</b> And perhaps that was Mr.<br/>15 Shortall's way of explaining to you the<br/>16 reason — having them re-explain the<br/>17 reasons for your demotion?<br/>18     A. I don't know.<br/>19     <b>Q.</b> Did they explain the reasons<br/>20 for your demotion during that second<br/>21 meeting?<br/>22     A. Yes.<br/>23     <b>Q.</b> And what did they say?<br/>24     A. One was it was a financial</p> |
| <p style="text-align: right;">Page 67</p> <p>1     <b>Gallagher? Or on or about May 31?</b><br/>2     A. On and about May 31.<br/>3     <b>Q.</b> That's how you were notified<br/>4 you were going to store 801?<br/>5     A. It was through a phone<br/>6 conversation.<br/>7     <b>Q.</b> You didn't meet with him in<br/>8 person again?<br/>9     A. I don't remember.<br/>10     <b>Q.</b> What did you mean to say about<br/>11 another Caucasian supervisor and area<br/>12 manager? You're still referring to Mr.<br/>13 Gallagher?<br/>14     A. Yes. The other manager was<br/>15 Jim Shortall.<br/>16     <b>Q.</b> Isn't it true that a couple<br/>17 days after your conversation with Mr.<br/>18 Gallagher, and this is the first<br/>19 face-to-face meeting that you had with him<br/>20 about the demotion in store 816, isn't it<br/>21 true you called Jim Shortall a couple days<br/>22 later?<br/>23     A. Don't remember if it was a<br/>24 couple days later, but I did contact him in</p>  | <p style="text-align: right;">Page 69</p> <p>1 statement. I had problems with my<br/>2 financial statement. And morale.<br/>3     <b>Q.</b> Did you agree with those<br/>4 reasons?<br/>5     A. No.<br/>6     <b>Q.</b> What was wrong with the<br/>7 financial statement?<br/>8     A. I don't know.<br/>9     <b>Q.</b> They never explained it?<br/>10     A. No.<br/>11     <b>Q.</b> And you didn't ask?<br/>12     A. No.<br/>13     <b>Q.</b> What was wrong with morale?<br/>14     A. I don't know.<br/>15     <b>Q.</b> They never explained what was<br/>16 wrong with morale?<br/>17     A. I don't remember.<br/>18     <b>Q.</b> You never asked them what they<br/>19 thought was wrong with morale?<br/>20     A. I did ask what was going on<br/>21 with morale. I don't remember what was<br/>22 said.<br/>23     <b>Q.</b> You think that the store<br/>24 associates who worked for you were happy?</p>  |

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| <p style="text-align: right;">Page 70</p> <p>1 A. I don't know.<br/>     2 Q. Isn't that something you would<br/>     3 know as a manager?<br/>     4 A. You would like to think you<br/>     5 know because some days people come in<br/>     6 happy, some people come in sad. You don't<br/>     7 know if it's because of the store or they<br/>     8 have personal problems.<br/>     9 Q. Would you find out as manager?<br/>     10 A. Yes, I would.<br/>     11 Q. Did you find out?<br/>     12 A. Sometimes.<br/>     13 Q. What do you mean by sometimes?<br/>     14 A. If I saw a situation that was<br/>     15 really out of the normal with a person,<br/>     16 that if, for example, if they came in happy<br/>     17 all the time and if they were sad or<br/>     18 something was going on in their life that I<br/>     19 was privy to ask or if they would<br/>     20 volunteer, then, yes, I would look into it.<br/>     21 Q. Was there a particular example<br/>     22 you have in mind?<br/>     23 A. No.<br/>     24 Q. So you don't recall ever</p> | <p style="text-align: right;">Page 72</p> <p>1 Q. And what are you basing that<br/>     2 belief on?<br/>     3 A. The volume.<br/>     4 Q. Did you know that for sure?<br/>     5 Isn't it true that 801 was a high-volume<br/>     6 store?<br/>     7 A. I believe my store was an E<br/>     8 level and 801 was D. And I believe the<br/>     9 focus was on the reduction in pay.<br/>     10 Q. You're saying you were more<br/>     11 concerned about reduction in pay as an<br/>     12 assistant manager. You weren't really<br/>     13 concentrating on the bonus potential or the<br/>     14 earnings potential of store?<br/>     15 A. Both.<br/>     16 Q. So tell me why you think 801<br/>     17 was a lower earning potential than 811.<br/>     18 A. Volume.<br/>     19 Q. And I asked you how you knew<br/>     20 that the volume wasn't as high as 801?<br/>     21 A. Through hearsay.<br/>     22 Q. What do you mean by E level<br/>     23 versus D level? Can you explain that?<br/>     24 A. From my understanding, the</p>   |
| <p style="text-align: right;">Page 71</p> <p>1 asking one of your associates at the time<br/>     2 whether they were content in their job?<br/>     3 A. No.<br/>     4 Q. You said that you were<br/>     5 assigned a low production store in<br/>     6 Claymont, Delaware. Do you know what store<br/>     7 you were referring to? What store are you<br/>     8 referring to?<br/>     9 A. Low production store. Is that<br/>     10 on here?<br/>     11 Q. Yes. Number 12. I'm still on<br/>     12 number 12.<br/>     13 A. I don't remember if low<br/>     14 production. It was -- the position was<br/>     15 assistant manager.<br/>     16 Q. And assigned to a particular<br/>     17 store. What store are you referring to?<br/>     18 A. 801.<br/>     19 Q. So you disagree that that was<br/>     20 a low production store?<br/>     21 A. I believe it was a lower value<br/>     22 store.<br/>     23 Q. Than?<br/>     24 A. The store I was at.</p>  | <p style="text-align: right;">Page 73</p> <p>1 stores, the way they're categorized is<br/>     2 based on letters, the volume of the store.<br/>     3 So as you climb the alphabet, the higher<br/>     4 letter, as you climb the alphabet, as you<br/>     5 go up, indicates the volume of the store.<br/>     6 So, for example, if you have a D store,<br/>     7 it's higher than an A store. C is higher<br/>     8 than an A. C is higher than a B.<br/>     9 Q. But you don't know for sure<br/>     10 whether 801 was a D level store?<br/>     11 A. And I believe it was a D.<br/>     12 Q. And you knew that for sure?<br/>     13 I'm just trying to understand why you think<br/>     14 801, as you allege, was a low production<br/>     15 store?<br/>     16 A. I believe it was a D store.<br/>     17 Q. Any other reason why you think<br/>     18 it's a low production store?<br/>     19 A. No.<br/>     20 Q. Isn't it true that you<br/>     21 suggested that Wawa move you to 801?<br/>     22 A. No.<br/>     23 Q. It's not true that that<br/>     24 suggestion originated with you?</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 A. No.<br/>     2 Q. Is it your testimony that you<br/>     3 had no say whatsoever as to where Wawa was<br/>     4 going to move you?<br/>     5 A. I had no say.<br/>     6 Q. Aside from the discussion that<br/>     7 you had with Jim Shortall and Joe Gallagher<br/>     8 regarding 801, is there anything else<br/>     9 during that conversation -- and aside from<br/>     10 the reasons they said you gave you for the<br/>     11 demotion, inventory and morale, is there<br/>     12 anything else you can recall from that<br/>     13 conversation?<br/>     14 A. No.<br/>     15 Q. Did you accept the position<br/>     16 during that conversation?<br/>     17 A. No.<br/>     18 Q. What did you say regarding the<br/>     19 position?<br/>     20 A. Well, there was a meeting, the<br/>     21 last meeting I had with Mr. Gallagher and<br/>     22 Mr. Stief. That was the final meeting I<br/>     23 had.<br/>     24 Q. I misspoke. That's the</p>                                   | <p style="text-align: right;">Page 76</p> <p>1 A. No.<br/>     2 Q. What did you say about the<br/>     3 decision you were going to make?<br/>     4 A. They left it up to me.<br/>     5 Q. And what did you say? You<br/>     6 would think about it? You would tell them<br/>     7 tomorrow?<br/>     8 A. No. I'll think about it.<br/>     9 Q. And was your wife present<br/>     10 during --<br/>     11 A. Yes.<br/>     12 Q. -- that conversation? Why was<br/>     13 she there?<br/>     14 A. For support.<br/>     15 Q. And Wawa let her participate?<br/>     16 A. Yes.<br/>     17 Q. Did she take notes?<br/>     18 A. I don't remember if she took<br/>     19 notes.<br/>     20 Q. Did you look for those notes?<br/>     21 A. I don't remember if she took<br/>     22 notes.<br/>     23 Q. Did your lawyer ask you for<br/>     24 documents, to look for documents in this</p>  |
| <p style="text-align: right;">Page 75</p> <p>1 meeting I'm talking about. I think your<br/>     2 testimony was that you had a phone<br/>     3 conversation and then you had a meeting<br/>     4 with Joe Gallagher and Mike Stief; correct?<br/>     5 A. That's correct.<br/>     6 Q. And I'm talking about during<br/>     7 that meeting with Joe Gallagher and Mike<br/>     8 Stief, they informed you the reasons for<br/>     9 your promotion, which you said was a<br/>     10 financial statement and morale --<br/>     11 A. Uh-huh.<br/>     12 Q. -- being low. And that they<br/>     13 notified you you were going to 801?<br/>     14 A. Right.<br/>     15 Q. Was it certain that you were<br/>     16 going to 801 or was that still up for<br/>     17 discussion?<br/>     18 A. From my understanding, it was<br/>     19 either accept 801 or resign.<br/>     20 Q. What did you do?<br/>     21 A. Resigned.<br/>     22 Q. But during that meeting, you<br/>     23 didn't tell them you resigned during that<br/>     24 meeting?</p> | <p style="text-align: right;">Page 77</p> <p>1 case in response to our interrogatories and<br/>     2 document request?<br/>     3 A. Rephrase the question.<br/>     4 Q. Were you asked by your lawyer<br/>     5 to look for documents in response to our<br/>     6 document request?<br/>     7 A. Yes.<br/>     8 Q. And did you look for notes?<br/>     9 Did you come across any notes from the<br/>     10 meeting you had that your wife had taken?<br/>     11 A. I don't remember.<br/>     12 Q. So you don't know whether she<br/>     13 may have notes from that conversation or<br/>     14 not?<br/>     15 A. I don't.<br/>     16 Q. Did you ask her whether she<br/>     17 has notes from that conversation?<br/>     18 A. I don't remember.<br/>     19 Q. You didn't ask her?<br/>     20 A. I don't remember.<br/>     21 Q. You don't remember if you<br/>     22 asked her. You have to ask her. Okay?<br/>     23 MS. BILENKER: Mr. Aber, I<br/>     24 request that Mr. McCants ask his</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 wife for notes she took during that<br/>2 May 31 meeting with Joe Gallagher<br/>3 and Mike Stief.<br/>4 MR. ABER: So far, I've given<br/>5 you everything.<br/>6 MS. BILENKER: He just<br/>7 testified he didn't recall asking<br/>8 her. I want him to ask her. I want<br/>9 those notes because we have reason<br/>10 to believe they exist.<br/>11 MR. ABER: If they're there<br/>12 and they're appropriate, we'll<br/>13 produce them.<br/>14 MS. BILENKER: Thank you.<br/>15 BY MS. BILENKER:<br/>16 Q. Is there anything else you<br/>17 want to tell me further about that<br/>18 conversation?<br/>19 A. At that meeting, Mr. Joe<br/>20 Gallagher mentioned that he talked to the<br/>21 staff, stating that he spoke with employees<br/>22 at 811 in reference to my conduct as a<br/>23 manager, stating that it was said that I<br/>24 was a nice guy, but a crappy manager.</p>  | <p style="text-align: right;">Page 80</p> <p>1 A. I don't remember.<br/>2 Q. You don't remember her perhaps<br/>3 changing your mind about the situation,<br/>4 that she didn't think it was a good idea<br/>5 for you to step down to assistant manager?<br/>6 A. I don't remember.<br/>7 Q. Is there anything else about<br/>8 that meeting that you recall was discussed?<br/>9 A. No. Is it okay if I stretch<br/>10 my legs?<br/>11 MR. ABER: Do you want to take<br/>12 a five-minute break?<br/>13 MS. BILENKER: Sure.<br/>14 - - -<br/>15 (Whereupon, there was a<br/>16 recess in the proceedings.)<br/>17 - - -<br/>18 BY MS. BILENKER:<br/>19 Q. I think where we were, Mr.<br/>20 McCants, we were discussing the<br/>21 face-to-face meeting you had with Joe<br/>22 Gallagher and Mike Stief on or about May<br/>23 31, 2002, which they again notified you<br/>24 about the demotion; correct? That's where</p> |
| <p style="text-align: right;">Page 79</p> <p>1 Q. He used that word crappy?<br/>2 A. It was something -- I don't<br/>3 know if that was the exact word, crappy,<br/>4 something stating either lousy or crappy<br/>5 manager. Nice guy, but lousy or crappy. I<br/>6 don't remember the exact word. And this<br/>7 was -- which I never knew anything about<br/>8 until that meeting. It was brought to my<br/>9 attention at that meeting after he told me<br/>10 about 801.<br/>11 Q. So it's your testimony the<br/>12 first time you learned about the discontent<br/>13 among your staff was at that May 31<br/>14 meeting?<br/>15 A. Yes.<br/>16 Q. Anything else you want to tell<br/>17 me about that conversation that was<br/>18 discussed? Do you recall?<br/>19 A. No.<br/>20 Q. The time period between the<br/>21 two meetings, the May 22 meeting and the<br/>22 May 31 meeting, that week or so, did you<br/>23 have any conversation with your wife about<br/>24 the demotion?</p> | <p style="text-align: right;">Page 81</p> <p>1 we were. Bring us back there. Okay? Yes?<br/>2 A. Yes.<br/>3 Q. I believe I asked you if there<br/>4 was anything else you could remember about<br/>5 the conversation, and you said no, we've<br/>6 covered everything that you can recall<br/>7 about that conversation?<br/>8 A. I'm sure there were other<br/>9 things said, but I don't remember<br/>10 everything.<br/>11 Q. Do you remember anything<br/>12 else? Because now is your opportunity to<br/>13 tell me.<br/>14 A. No.<br/>15 Q. Why do you think you were<br/>16 demoted?<br/>17 A. I don't know.<br/>18 Q. Do you think it was because of<br/>19 your race?<br/>20 A. I believe it was a<br/>21 continuance. It all started with not<br/>22 getting the gas store promotion and when I<br/>23 expressed my concern to Mr. Poplawski about<br/>24 lack of diversity, I think it was a</p>                   |

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| <p style="text-align: right;">Page 82</p> <p>1 continuum.</p> <p>2     <b>Q.</b> Why didn't they demote you<br/>3 right after you complained? Why did they<br/>4 wait until May?</p> <p>5     A. I don't know.</p> <p>6     <b>Q.</b> You're saying that you believe<br/>7 your demotion was the direct result of your<br/>8 comment you made to Mr. Poplawski about a<br/>9 lack of diversity?</p> <p>10    A. Yes.</p> <p>11    <b>Q.</b> Anything else? Any other<br/>12 reason why you believe you were demoted?</p> <p>13    A. No.</p> <p>14    <b>Q.</b> Are you claiming religious<br/>15 discrimination in this case? Are you<br/>16 claiming that Wawa discriminated against<br/>17 you because of your religion? Are you<br/>18 claiming that your demotion — that Wawa<br/>19 demoted you because of your religion?</p> <p>20    A. In addition to the comment or<br/>21 in addition to me asking Mr. John Poplawski<br/>22 about lack of diversity, there was also a<br/>23 comment made by Mr. Joe Gallagher that I<br/>24 didn't work on Sunday because I did the</p>                         | <p style="text-align: right;">Page 84</p> <p>1 store 842. He was given store -- gas store<br/>2 841, white manager, without being<br/>3 interviewed. Tom, who is the store manager<br/>4 at 811, was given store 842 without being<br/>5 interviewed, and I was transferred to store<br/>6 811.</p> <p>7     <b>Q.</b> Okay.</p> <p>8     A. Race.</p> <p>9     <b>Q.</b> What —</p> <p>10    A. White manager was awarded the<br/>11 gas store again without being interviewed.</p> <p>12    <b>Q.</b> Because of race?</p> <p>13    A. Yes.</p> <p>14    <b>Q.</b> What is your basis for saying<br/>15 that the reason he was awarded 841 was<br/>16 because of race?</p> <p>17    A. Yes. It had to be race<br/>18 because I didn't get store 840. It was<br/>19 awarded to a white -- a Caucasian, and then<br/>20 I was told that all gas stores, all<br/>21 managers interviewed for it, and I did not<br/>22 receive an interview for that store. It<br/>23 was awarded to a Caucasian.</p> <p>24    <b>Q.</b> Was anyone else interviewed</p> |
| <p style="text-align: right;">Page 83</p> <p>1 church thing. So I believe it was a<br/>2 continuance of the lack of the diversity<br/>3 question. It was an ongoing thing starting<br/>4 with lack of diversity and next the<br/>5 question about -- the next comment about<br/>6 church.</p> <p>7     <b>Q.</b> Let me back up. Are you<br/>8 claiming that the reason you were demoted<br/>9 is because of your religion?</p> <p>10    A. Race.</p> <p>11    <b>Q.</b> And what is your basis for<br/>12 saying that it's race?</p> <p>13    A. When store 840 was posted, and<br/>14 the managers that interviewed for that<br/>15 store -- it was said to me by John<br/>16 Poplawski that whenever there is a gas<br/>17 store posting, all managers who want to<br/>18 interview for the store can. Store 840 was<br/>19 awarded to George Sheldon. George<br/>20 Sheldon came from 841, where he was<br/>21 already a gas store manager. At that time<br/>22 when George was awarded store 840, 841<br/>23 became available. No one interviewed for<br/>24 that store. Chris Casey was manager at</p> | <p style="text-align: right;">Page 85</p> <p>1 for that store?</p> <p>2     A. Which store?</p> <p>3     <b>Q.</b> For 841.</p> <p>4     A. No.</p> <p>5     <b>Q.</b> So how were you treated<br/>6 differently?</p> <p>7     A. I was told that all managers<br/>8 who are eligible to interview will<br/>9 interview. And I didn't interview.</p> <p>10    <b>Q.</b> You interviewed for store 840?</p> <p>11    A. Right. Which I was qualified<br/>12 for and I didn't get.</p> <p>13    <b>Q.</b> We've established that you<br/>14 don't know any of the qualifications of the<br/>15 person who got that job over you?</p> <p>16    A. I don't know their<br/>17 qualifications. I know my qualifications.</p> <p>18    <b>Q.</b> How did you know store 840<br/>19 became vacant? It was posted; right?</p> <p>20    A. That's correct.</p> <p>21    <b>Q.</b> And the reason it became<br/>22 vacant was because a manager there went to<br/>23 another job at Wawa; right? Joann Jackson;<br/>24 right?</p>                                 |

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| <p style="text-align: right;">Page 86</p> <p>1       A. Rephrase the question.<br/>     2       Q. Isn't it true that the vacancy<br/>     3 at 840 posted because the manager there<br/>     4 went on to a different job at Wawa?<br/>     5       A. What was the name of the<br/>     6 manager?<br/>     7       Q. Joann Jackson. Didn't you<br/>     8 work under her at 840? Didn't she train<br/>     9 you? You don't recall if Joann Jackson<br/>     10 trained you at Wawa?<br/>     11      A. Joann Jackson. Joann Jackson<br/>     12 was the manager before George Sheldon.<br/>     13      Q. So she went to a different job<br/>     14 at Wawa and there was vacancy at 840;<br/>     15 correct?<br/>     16      A. Yes.<br/>     17      Q. Everybody interviewed for the<br/>     18 vacancy at 840? You just explained that<br/>     19 George Sheldon got that job and left an<br/>     20 opening at 841?<br/>     21      A. Yes.<br/>     22      Q. Nobody interviewed for the job<br/>     23 at 841; right? Everybody just got bumped<br/>     24 up; isn't that true?</p>                         | <p style="text-align: right;">Page 88</p> <p>1       Q. What store were you working in<br/>     2 at the time?<br/>     3       A. At the time of what?<br/>     4       Q. You interviewed for 840.<br/>     5       A. 825.<br/>     6       Q. What was your store ranked at<br/>     7 Wawa?<br/>     8       A. Ranked as far as?<br/>     9       Q. Out of the 500 stores at<br/>     10 Wawa.<br/>     11      A. I don't know.<br/>     12      Q. Would you agree it was 415 out<br/>     13 of 500?<br/>     14      A. I don't know.<br/>     15      Q. You don't know what the store<br/>     16 was ranked?<br/>     17      A. No.<br/>     18      Q. How long had you been managing<br/>     19 825 at the time?<br/>     20      A. I believe close to a year.<br/>     21      Q. Would you say it's more<br/>     22 difficult or less difficult or equally<br/>     23 difficult to manage a gas store at Wawa<br/>     24 versus a regular store without gas?</p> |
| <p style="text-align: right;">Page 87</p> <p>1       A. Based on my conversation with<br/>     2 John Poplawski, when gas stores become<br/>     3 available, you can interview for the gas<br/>     4 store. 841 came available and I did not<br/>     5 receive an interview for gas store 841.<br/>     6       Q. And nobody interviewed for<br/>     7 841; correct?<br/>     8       A. I don't know that.<br/>     9       Q. So you don't know if anybody<br/>     10 was interviewed or not? Same question.<br/>     11      A. No.<br/>     12      Q. The individual who got 841 you<br/>     13 testified was Chris Casey?<br/>     14      A. Yes.<br/>     15      Q. Do you know if you were more<br/>     16 qualified or less qualified or equally<br/>     17 qualified than Chris Casey?<br/>     18      A. I don't know Chris Casey's<br/>     19 qualifications.<br/>     20      Q. Isn't it true that 840 was a<br/>     21 number 1 store at the time in Wawa? It was<br/>     22 a very high-volume store?<br/>     23      A. It's a high-volume store. I<br/>     24 don't know if it was number 1.</p> | <p style="text-align: right;">Page 89</p> <p>1       A. Repeat that.<br/>     2       Q. Is it harder to manage a gas<br/>     3 store than a regular store without gas at<br/>     4 Wawa?<br/>     5       A. It's more responsibility on<br/>     6 you to manage.<br/>     7       Q. You supervise more people?<br/>     8       A. It's --<br/>     9       Q. True? You supervise more<br/>     10 people?<br/>     11      A. It's more responsibility.<br/>     12      You --<br/>     13      Q. Go ahead.<br/>     14      A. It's more responsibility on<br/>     15 you to manage a gas store.<br/>     16      Q. When you didn't get the gas<br/>     17 store job, Mr. McCants, did you file a<br/>     18 grievance?<br/>     19      A. No.<br/>     20      Q. Why not?<br/>     21      A. I don't know.<br/>     22      Q. I'm going show you another<br/>     23 document.<br/>     24 - - -</p>   |

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| <p style="text-align: right;">Page 98</p> <p>1       <b>Q. Did you do that on a regular<br/>2 basis?</b></p> <p>3       A. Yes.</p> <p>4       <b>Q. If a store associate<br/>5 complained that you didn't do that, would<br/>6 they be lying?</b></p> <p>7       A. Yes.</p> <p>8       <b>Q. If three store associates<br/>9 claim that you didn't do that, would the<br/>10 three of them be lying?</b></p> <p>11      A. Yes.</p> <p>12      <b>Q. How about work with FSM? What<br/>13 does that mean?</b></p> <p>14      A. Food service manager.</p> <p>15      <b>Q. How would you work with the<br/>16 FSM?</b></p> <p>17      A. Make sure ordering -- our<br/>18 ordering was correct. Make sure that<br/>19 spoilage -- we were controlling spoilage.</p> <p>20      <b>Q. Did you do that --</b></p> <p>21      A. Sanitation. Deli service.<br/>22 And training.</p> <p>23      <b>Q. Did you do that at 825?</b></p> <p>24      A. Yes.</p>   | <p style="text-align: right;">Page 100</p> <p>1       for your store that you couldn't go above,<br/>2 what was budgeted for that store as far as<br/>3 labor.</p> <p>4       <b>Q. What was --</b></p> <p>5       A. And I believe that was --<br/>6 might have been, if I remember correctly,<br/>7 39 percent.</p> <p>8       <b>Q. What is watch the use of<br/>9 03/04/08 hours?</b></p> <p>10      A. That was assigned to the<br/>11 associates. 03, if I remember correctly,<br/>12 is management. 04 was associates. 08 was<br/>13 training.</p> <p>14      <b>Q. How about watch purchases -<br/>15 internal and external? Customers?</b></p> <p>16      A. No. That was based on your<br/>17 vendors. When we place our orders through<br/>18 the computer system other when you assign<br/>19 somebody to do your orders, make sure<br/>20 they're ordering properly for the store,<br/>21 and then you had to watch for the vendors<br/>22 that did their own -- came in and gave you<br/>23 an account of what they thought you needed<br/>24 in your store.</p>                        |
| <p style="text-align: right;">Page 99</p> <p>1       <b>Q. You think you did that<br/>2 successfully at 825?</b></p> <p>3       A. Yes.</p> <p>4       <b>Q. What does get cash in check<br/>5 mean?</b></p> <p>6       A. Cash is part of shrink,<br/>7 inventory loss, and control, making sure<br/>8 that the tills are not above -- we're<br/>9 supposed to have -- if I remember<br/>10 correctly, \$95 in cash in the till. If you<br/>11 go above that, it's not a good thing<br/>12 because customers, when they see you open<br/>13 up the register, they see a lot of money in<br/>14 there. When employees log off their<br/>15 registers, make sure -- look at the over<br/>16 and under of the day and deposits.</p> <p>17      <b>Q. Do you think you had that<br/>18 under control at 825?</b></p> <p>19      A. For the most part, I did. I<br/>20 think a couple months, I didn't have it<br/>21 under control.</p> <p>22      <b>Q. How about getting labor<br/>23 dollars on track? What does that mean?</b></p> <p>24      A. There was a certain percentage</p> | <p style="text-align: right;">Page 101</p> <p>1       <b>Q. Did you enter the invoices<br/>2 from those vendors properly?</b></p> <p>3       A. Yes.</p> <p>4       <b>Q. Did you ever have issues with<br/>5 respect to those? In other words, you<br/>6 didn't enter them properly all the time?</b></p> <p>7       A. There was a couple times, yes,<br/>8 I had problems, you know. A certain<br/>9 product wasn't in the system and we had to<br/>10 find out why we got a new product and it<br/>11 wasn't in the system. So I had problems<br/>12 like that; yes.</p> <p>13      <b>Q. What about your Patco Score?<br/>14 Increase Patco Score. How would you do<br/>15 that?</b></p> <p>16      A. That came with operations. If<br/>17 everybody -- it had to do with cleanliness<br/>18 of the store. Making sure dates were<br/>19 correct on your product. First in, first<br/>20 out. Just making sure everyone did their<br/>21 job concerning Patco.</p> <p>22      <b>Q. You had low Patco scores in<br/>23 825; isn't that true?</b></p> <p>24      A. I don't remember all the</p> |

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| <p style="text-align: right;">Page 102</p> <p>1 scores.</p> <p>2 Q. They weren't high. They were</p> <p>3 low. You don't recall?</p> <p>4 A. No.</p> <p>5 Q. You don't recall having issues</p> <p>6 with respect to Patco in store 825?</p> <p>7 A. No.</p> <p>8 Q. How were you going to develop</p> <p>9 your staff, which is the next line?</p> <p>10 A. First with management, making</p> <p>11 sure management took the assigned classes</p> <p>12 that were posted on the computer system.</p> <p>13 Work one-on-one with them in training,</p> <p>14 empowerment.</p> <p>15 Q. Did you do that in 825?</p> <p>16 A. Yes.</p> <p>17 Q. You think you did that in 825?</p> <p>18 A. Yes.</p> <p>19 Q. Why did you think you were</p> <p>20 qualified to manage 840?</p> <p>21 A. I worked at the MIT at 840</p> <p>22 under Joann Jackson.</p> <p>23 Q. You never managed a gas store</p> <p>24 on your own did you?</p> | <p style="text-align: right;">Page 104</p> <p>1 stores at issue; isn't that true?</p> <p>2 A. I would like to believe it was</p> <p>3 based on credentials.</p> <p>4 Q. And you don't know which</p> <p>5 credentials Wawa valued over others;</p> <p>6 correct?</p> <p>7 A. No.</p> <p>8 Q. Now instead of getting 840 or</p> <p>9 841, you went to 811; right? Store 811?</p> <p>10 A. Yes.</p> <p>11 Q. Or 825. And that was still a</p> <p>12 promotion; correct?</p> <p>13 A. Yes.</p> <p>14 Q. I want to turn back to your</p> <p>15 Complaint, Mr. McCants. I think we were on</p> <p>16 allegation 13. Well, I think where we were</p> <p>17 was I was asking you whether you were</p> <p>18 bringing a religious discrimination claim.</p> <p>19 I think you said -- you didn't say yes or</p> <p>20 no, but you said you believe it's because</p> <p>21 of your race that you didn't get the</p> <p>22 promotion and that you were demoted.</p> <p>23 Correct me if I'm wrong, and I want to be</p> <p>24 sure I know what you're alleging. So</p>  |
| <p style="text-align: right;">Page 103</p> <p>1 A. No.</p> <p>2 Q. George Sheldon had, or you</p> <p>3 don't know?</p> <p>4 A. Yes. He managed store 841.</p> <p>5 Q. He came from 841?</p> <p>6 A. Uh-huh.</p> <p>7 Q. And Chris Casey had managed a</p> <p>8 gas store, too; isn't that correct?</p> <p>9 A. I believe so.</p> <p>10 Q. Isn't it true you don't know</p> <p>11 how the other applicants did in their</p> <p>12 interviews for 840?</p> <p>13 A. No.</p> <p>14 Q. It's not true or it's true,</p> <p>15 you don't know?</p> <p>16 A. I don't know how they did --</p> <p>17 Q. And you haven't --</p> <p>18 A. I don't know.</p> <p>19 Q. You didn't see their business</p> <p>20 plans? Or did you?</p> <p>21 A. No.</p> <p>22 Q. So you don't know the basis</p> <p>23 for Wawa's decision in choosing other</p> <p>24 candidates over you to manage the gas</p>  | <p style="text-align: right;">Page 105</p> <p>1 you're saying the reason you didn't get the</p> <p>2 promotion was because of race?</p> <p>3 A. Yes. Because when I asked Mr.</p> <p>4 Poplawski about lack of diversity, I</p> <p>5 believe I was targeted at that point. Even</p> <p>6 when I got to the promotion to 811, I think</p> <p>7 it was just to pacify me. And I am well</p> <p>8 aware that when a manager goes from store</p> <p>9 to store, the supervisor that's going to be</p> <p>10 responsible for him, they are well aware of</p> <p>11 the person they're getting. And I believe</p> <p>12 when it fell into Mr. Joe Gallagher's</p> <p>13 hands, it was a continuation from me asking</p> <p>14 the question about lack of diversity. And</p> <p>15 they maybe thought I was going to be a</p> <p>16 problem, which I wasn't. And that's where</p> <p>17 the continuation of the church</p> <p>18 comment...</p> <p>19 Q. That was the first comment.</p> <p>20 There was another comment?</p> <p>21 A. No. The church comment was</p> <p>22 from Mr. Joe Gallagher. So I believe I was</p> <p>23 getting set up to be forced out.</p> <p>24 Q. So you are bringing a</p> |

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| <p style="text-align: right;">Page 106</p> <p>1    religious discrimination claim?</p> <p>2    A. Yes.</p> <p>3    Q. What other evidence do you have that you were discriminated against on the basis of your religion aside from the comment that you allege Joe Gallagher made?</p> <p>4    A. That's it.</p> <p>5    Q. So if you look at paragraph 13, which says, one of the reasons for the retaliatory actions taken was that you didn't have commitment because you refused to work Sundays, because you attended church on Sundays, what's the basis for that allegation? Did Wawa ever tell you you have to work Sunday?</p> <p>6    A. No.</p> <p>7    Q. What is the basis for that allegation?</p> <p>8    A. My commitment.</p> <p>9    Q. What about your commitment?</p> <p>10   A. There was a concern about my commitment. That's when the Sunday came up, that I didn't work Sundays because I did the church thing, which I did --</p> | <p style="text-align: right;">Page 108</p> <p>1    A. Department of Labor.</p> <p>2    Q. Your charge?</p> <p>3    A. Yes.</p> <p>4    Q. I'm talking about a grievance within Wawa.</p> <p>5    A. No.</p> <p>6    Q. You're aware of the grievance procedures at Wawa; correct?</p> <p>7    A. No.</p> <p>8    Q. You didn't know that Wawa had an internal grievance procedure?</p> <p>9    A. No.</p> <p>10   Q. As a manager, you weren't aware of that?</p> <p>11   A. No.</p> <p>12   Q. Did you get the employee handbook at Wawa when you worked at Wawa?</p> <p>13   Did you get the policies and procedures handbook when you joined Wawa?</p> <p>14   A. Don't remember.</p> <p>15   Q. Did you ever see the policies and procedures handbook while you worked for Wawa?</p> <p>16   A. Don't remember.</p>  |
| <p style="text-align: right;">Page 107</p> <p>1    Q. You did work Sundays?</p> <p>2    A. -- work Sundays.</p> <p>3    Q. So what was the issue? What was the issue?</p> <p>4    A. The issue is: Why was the comment made?</p> <p>5    Q. Anything else regarding the discrimination on the basis of religion that you want to explain? Is there any --</p> <p>6    I think it's been asked and answered. I asked you if there was anything else and you said it was a comment and there was nothing else you could recall at Wawa --</p> <p>7    that would give you the basis for thinking Wawa discriminated against you was on the basis of your religion?</p> <p>8    A. No.</p> <p>9    Q. Did you ever file a grievance with Wawa claiming religious discrimination?</p> <p>10   A. Not with Wawa.</p> <p>11   Q. Did you ever file a claim --</p> <p>12   A. The labor --</p> <p>13   Q. -- with somebody else?</p>                               | <p style="text-align: right;">Page 109</p> <p>1    Q. I want to go back to your meeting that we said was on around May 21 or 22 with Mr. Gallagher when you were notified you were being demoted. Why do you think Wawa chose to demote you and not terminate you?</p> <p>2    MR. ABER: Objection.</p> <p>3    THE WITNESS: I don't know.</p> <p>4    BY MS. BILENKER:</p> <p>5    Q. Did they explain the reason for demoting you would be to help retrain you in certain aspects of your job so that you could later become a manager? You could become a manager again?</p> <p>6    A. No.</p> <p>7    Q. They never explained that to you?</p> <p>8    A. No.</p> <p>9    Q. Isn't it true in that conversation you expressed some interest about other jobs within Wawa outside of the store?</p> <p>10   A. I know I expressed interest to Mike Stief about going to corporate --</p> |

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| <p style="text-align: right;">Page 110</p> <p>1       <b>Q. How come --</b><br/> 2       A. -- when he came on as our -- I<br/> 3      believe it's area manager or area<br/> 4      supervisor.<br/> 5       <b>Q. How come you never pursued</b><br/> 6      <b>that interest?</b><br/> 7       A. Well, I believe at the time<br/> 8      that I -- that you had to go through being<br/> 9      a gas store manager.<br/> 10      <b>Q. You thought you had to be a</b><br/> 11     <b>gas store manager in order to get a</b><br/> 12     <b>corporate position at Wawa headquarters?</b><br/> 13      A. Yes.<br/> 14      <b>Q. And what do you base that</b><br/> 15     <b>belief on?</b><br/> 16      A. I don't know, but that was my<br/> 17     belief, that you had to go through the<br/> 18     ranks of being in the field before you go<br/> 19     to corporate.<br/> 20      <b>Q. Isn't it true that your</b><br/> 21     <b>supervisors made it known that you could</b><br/> 22     <b>have -- they would help you explore other</b><br/> 23     <b>opportunities within Wawa?</b><br/> 24      A. No.</p>   | <p style="text-align: right;">Page 112</p> <p>1      and what assistant managers get paid.<br/> 2       <b>Q. Did you ask about what your</b><br/> 3      <b>salary was going to be?</b><br/> 4       A. No.<br/> 5       <b>Q. Did they tell you what your</b><br/> 6      <b>salary was going to be?</b><br/> 7       A. Don't remember, but assistant<br/> 8      managers -- I'm a manager, and I'd like to<br/> 9      think if you're a manager, assistant<br/> 10     manager is going to make less than a<br/> 11     manager.<br/> 12      <b>Q. Were you concerned about that?</b><br/> 13      A. Yes.<br/> 14      <b>Q. But you didn't ask about it?</b><br/> 15      A. Don't remember.<br/> 16      <b>Q. You don't remember at all</b><br/> 17     <b>discussing what your salary was going to</b><br/> 18     <b>be? That's your testimony?</b><br/> 19      A. I don't remember asking.<br/> 20      <b>Q. Did you take any notes during</b><br/> 21     <b>those meetings? I'm talking about the</b><br/> 22     <b>first meeting with Mr. Gallagher.</b><br/> 23      A. No.<br/> 24      <b>Q. You didn't take any notes</b></p>   |
| <p style="text-align: right;">Page 111</p> <p>1       <b>Q. Weren't you getting experience</b><br/> 2     <b>in the field as being a store manager of a</b><br/> 3     <b>non-gas store? I don't quite understand</b><br/> 4     <b>the logic that you thought you had to be a</b><br/> 5     <b>gas store manager to get a corporate job.</b><br/> 6       A. I just heard that. I thought<br/> 7      that was the way to go.<br/> 8       <b>Q. Who did you hear that from?</b><br/> 9       A. I don't remember who I heard<br/> 10     it from, but I thought that's the way to<br/> 11     go. In order to get in corporate, you had<br/> 12     to go through being a gas store manager<br/> 13     first.<br/> 14      <b>Q. Did you ever get that</b><br/> 15     <b>confirmed by your supervisors?</b><br/> 16      A. No.<br/> 17      <b>Q. You never asked?</b><br/> 18      A. No.<br/> 19      <b>Q. When did you discuss salary,</b><br/> 20     <b>the details about what your salary would be</b><br/> 21     <b>as an assistant manager after you were</b><br/> 22     <b>notified you were demoted?</b><br/> 23      A. I believe at the meeting with<br/> 24     Mike Stief, I was told about the demotion</p> | <p style="text-align: right;">Page 113</p> <p>1      <b>during the second meeting with Mr.</b><br/> 2     <b>Gallagher and Mr. Stief?</b><br/> 3       A. No.<br/> 4       <b>Q. Did you ever talk about -- now</b><br/> 5     <b>we're going to the second meeting with Mr.</b><br/> 6     <b>Gallagher and Mr. Stief. Did you ever talk</b><br/> 7     <b>about what standards of performance are?</b><br/> 8       A. No.<br/> 9       <b>Q. Did Mr. Gallagher and Mr.</b><br/> 10     <b>Stief ask you or tell you how long you had</b><br/> 11     <b>to think about the decision? Did they give</b><br/> 12     <b>you an idea when you should contact them</b><br/> 13     <b>about your decision, whether you were going</b><br/> 14     <b>to accept a demotion or resign, or</b><br/> 15     <b>something else?</b><br/> 16       A. No.<br/> 17       <b>Q. So the next time you contacted</b><br/> 18     <b>Wawa was in August. You left a voicemail</b><br/> 19     <b>message for Mr. Stief? Does that sound</b><br/> 20     <b>right?</b><br/> 21       A. I left a voicemail for Mr.<br/> 22     Stief. I don't know when it was.<br/> 23       <b>Q. It was at least a month</b><br/> 24     <b>later. Does that sound right?</b></p> |

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| <p style="text-align: right;">Page 114</p> <p>1 A. I don't remember the time.<br/>     2 Q. Do you know when your official<br/>     3 resignation date was?<br/>     4 A. No.<br/>     5 Q. Does August 12 sound right?<br/>     6 A. I don't know.<br/>     7 Q. You don't recall being very<br/>     8 specific to Mr. Stief's voicemail that you<br/>     9 wanted August 12 to be the resignation<br/>     10 date?<br/>     11 A. No.<br/>     12 Q. After that meeting, did you<br/>     13 apply for workers' comp?<br/>     14 A. I applied for workmen's comp.<br/>     15 I don't know if that was the date.<br/>     16 Q. After the meeting, you applied<br/>     17 for workers' comp?<br/>     18 A. I don't know if that was the<br/>     19 date. I applied for it, but I don't know<br/>     20 if that was the date.<br/>     21 Q. I'm not giving you the date.<br/>     22 I'm saying, after you met with them<br/>     23 regarding the demotion, regarding the<br/>     24 assistant manager position —</p> | <p style="text-align: right;">Page 116</p> <p>1 that was true, had an honest belief that<br/>     2 was true. Would it be reasonable for them<br/>     3 to demote you?<br/>     4 MR. ABER: Objection.<br/>     5 MS. BILENKER: You can<br/>     6 answer.<br/>     7 THE WITNESS: Repeat the<br/>     8 question.<br/>     9 BY MS. BILENKER:<br/>     10 Q. If Wawa had an honest belief<br/>     11 that the reasons that they needed to demote<br/>     12 you was that you had a troubled financial<br/>     13 statement or your financials in the store<br/>     14 weren't good or the morale was really<br/>     15 problematic in your store, would it be<br/>     16 reasonable for Wawa to demote you?<br/>     17 A. In the meeting with Mr. Joe<br/>     18 Gallagher and Mr. Mike Stief, up until that<br/>     19 meeting, I had no proof of anything.<br/>     20 Morale, troubled statement, anything of<br/>     21 that nature.<br/>     22 Q. What was the last grade of<br/>     23 school that you completed?<br/>     24 A. School? High school or</p> |
| <p style="text-align: right;">Page 115</p> <p>1 A. I applied for workmen's comp<br/>     2 but I don't know when.<br/>     3 Q. Did you also apply for<br/>     4 short-term disability?<br/>     5 A. Yes.<br/>     6 Q. And you collected short-term<br/>     7 disability?<br/>     8 A. Yes.<br/>     9 Q. For how long?<br/>     10 A. I don't know.<br/>     11 Q. Isn't it true you were still<br/>     12 collecting short-term disability from Wawa<br/>     13 and you'd already started another job with<br/>     14 Elite?<br/>     15 A. Don't remember.<br/>     16 Q. Mr. McCants, you testified<br/>     17 that the reasons the company gave you for<br/>     18 having — for demoting you to assistant<br/>     19 manager were performance-related; right?<br/>     20 They said the financial statement and the<br/>     21 low morale were the two reasons you said<br/>     22 they gave you?<br/>     23 A. Uh-huh.<br/>     24 Q. Let's say the company believed</p>                                      | <p style="text-align: right;">Page 117</p> <p>1 college?<br/>     2 Q. Start with high school.<br/>     3 A. 12th.<br/>     4 Q. You graduated high school?<br/>     5 A. Yes.<br/>     6 Q. Did you graduate from college?<br/>     7 A. Some college.<br/>     8 Q. So you didn't graduate —<br/>     9 A. No.<br/>     10 Q. — from college? How much<br/>     11 college did you attend?<br/>     12 A. Three years.<br/>     13 Q. Why didn't you graduate?<br/>     14 A. I left for personal reasons.<br/>     15 Q. What were those reasons?<br/>     16 A. I left for personal reasons.<br/>     17 Q. And I'm asking you: What were<br/>     18 those reasons?<br/>     19 A. I left for personal reasons.<br/>     20 Q. I'm asking you: What were the<br/>     21 personal reasons you left?<br/>     22 A. Family.<br/>     23 Q. What about your family?<br/>     24 A. Sickness.</p>   |

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| <p style="text-align: right;">Page 122</p> <p>1   <b>Productions?</b><br/>     2    A. No.<br/>     3    <b>Q. Did you ever work at</b><br/>     4   <b>McDonald's?</b><br/>     5    A. Don't remember.<br/>     6    <b>Q. You don't remember whether you</b><br/>     7   <b>ever worked for McDonald's or not?</b><br/>     8    A. No; I never worked for<br/>     9   McDonald's.<br/>     10   <b>Q. While you were a student at</b><br/>     11   <b>Widener, you indicate here on the</b><br/>     12   <b>application that you worked for</b><br/>     13   <b>McDonald's. Are you saying that that's not</b><br/>     14   <b>true?</b><br/>     15   A. That's not true.<br/>     16   <b>Q. Why would it indicate that you</b><br/>     17   <b>worked for McDonald's if you never worked</b><br/>     18   <b>for McDonald's?</b><br/>     19   A. I don't know.<br/>     20   <b>Q. And why would it indicate that</b><br/>     21   <b>you worked for Wawa if you didn't work for</b><br/>     22   <b>Wawa?</b><br/>     23   A. I don't know.<br/>     24   <b>Q. Who took this information down</b></p> | <p style="text-align: right;">Page 124</p> <p>1   <b>Wawa? Did you see an ad in the paper? Did</b><br/>     2   <b>you go on the internet?</b><br/>     3    A. Ad in the paper.<br/>     4    <b>Q. What was it an ad for? Was it</b><br/>     5   <b>a managerial position? An associate</b><br/>     6   <b>position? Assistant manager position?</b><br/>     7   <b>Where did you want to work at Wawa?</b><br/>     8    A. Repeat that please.<br/>     9    <b>Q. Where did you want to work</b><br/>     10   <b>within Wawa?</b><br/>     11   A. Where did I want to work at<br/>     12   Wawa?<br/>     13   <b>Q. At the time you applied?</b><br/>     14   A. Management.<br/>     15   <b>Q. Did you want to work in a</b><br/>     16   <b>store? Did you want to work in HR? Did</b><br/>     17   <b>you want to work in corporate?</b><br/>     18   A. Store.<br/>     19   <b>Q. Did you, in fact, get the job?</b><br/>     20   A. Yes.<br/>     21   <b>Q. And what was your first</b><br/>     22   <b>position in Wawa?</b><br/>     23   A. I believe it was assistant<br/>     24   manager.</p> |
| <p style="text-align: right;">Page 123</p> <p>1   <b>for this application? Who did you speak to</b><br/>     2   <b>at Guardsmark about the job that you were</b><br/>     3   <b>applying for?</b><br/>     4    A. I don't remember.<br/>     5      MS. BILENKER: Let's go off<br/>     6      the record.<br/>     7      - - -<br/>     8      (Whereupon, an off-the-record<br/>     9      discussion was held.)<br/>     10     - - -<br/>     11   <b>BY MS. BILENKER:</b><br/>     12   <b>Q. Where did you work before you</b><br/>     13   <b>worked for M. Charles Productions?</b><br/>     14    A. I don't remember.<br/>     15   <b>Q. After you worked at M. Charles</b><br/>     16   <b>Productions, you applied for a job with</b><br/>     17   <b>Wawa; correct?</b><br/>     18    A. Yes.<br/>     19   <b>Q. And you allege in the</b><br/>     20   <b>complaint it was about October, '97?</b><br/>     21    A. Yes.<br/>     22   <b>Q. Who hired you?</b><br/>     23    A. Rick Downes.<br/>     24   <b>Q. How did you come to apply for</b></p>  | <p style="text-align: right;">Page 125</p> <p>1    - - -<br/>     2      (Whereupon, Exhibit McCants-6 was<br/>     3      marked for identification.)<br/>     4      - - -<br/>     5   <b>BY MS. BILENKER:</b><br/>     6   <b>Q. Is this your job application</b><br/>     7   <b>for Wawa? Is this your handwriting?</b><br/>     8    A. Yes.<br/>     9   <b>Q. Is that your signature on the</b><br/>     10   <b>second page?</b><br/>     11    A. Yes.<br/>     12   <b>Q. And it's dated October 21,</b><br/>     13   <b>1997?</b><br/>     14    A. Yes.<br/>     15   <b>Q. So you were hired as an</b><br/>     16   <b>assistant manager. Did it come to a point</b><br/>     17   <b>when you joined the manager-in-training</b><br/>     18   <b>program?</b><br/>     19    A. Yes.<br/>     20   <b>Q. And what did you understand</b><br/>     21   <b>that program to be?</b><br/>     22    A. Manager in training.<br/>     23   <b>Q. So you were going to train for</b><br/>     24   <b>some period of time under a manager to</b></p>   |

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| <p style="text-align: right;">Page 126</p> <p>1   <b>eventually become a manager yourself?</b><br/>     2   A. Yes.<br/>     3   <b>Q. And I think you testified you</b><br/>     4   <b>agreed that you trained under Joann</b><br/>     5   <b>Jackson; is that right?</b><br/>     6   A. Yes.<br/>     7   <b>Q. And that was in store 840?</b><br/>     8   A. I worked with Joann at 816,<br/>     9   too.<br/>     10   <b>Q. Then there came a time when</b><br/>     11   <b>you were promoted to a manager?</b><br/>     12   A. Yes.<br/>     13   <b>Q. Would that sound right if I</b><br/>     14   <b>were to say that was in the fall of 2000?</b><br/>     15   A. Yes.<br/>     16   <b>Q. Which store were you</b><br/>     17   <b>managing? What was your first store that</b><br/>     18   <b>you managed?</b><br/>     19   A. 825.<br/>     20   <b>Q. Who did you report to?</b><br/>     21   A. Rick Downes.<br/>     22   <b>Q. Did there come a point when</b><br/>     23   <b>you began reporting to John Poplawski?</b><br/>     24   A. Yes.</p>   | <p style="text-align: right;">Page 128</p> <p>1   <b>Q. And what is his name?</b><br/>     2   A. Julian McCants.<br/>     3   <b>Q. What occasion did Wawa have to</b><br/>     4   <b>take these pictures?</b><br/>     5   A. Recruitment.<br/>     6   <b>Q. What about recruitment?</b><br/>     7   A. Mr. Rick Downes asked me if I<br/>     8   would participate in a recruitment poster.<br/>     9   <b>Q. What was your reaction?</b><br/>     10   A. I said yes.<br/>     11   <b>Q. What did it involve? What did</b><br/>     12   <b>you have to do as part of the recruitment</b><br/>     13   <b>campaign?</b><br/>     14   A. Take pictures.<br/>     15   <b>Q. Why do you think Wawa asked</b><br/>     16   <b>you to be depicted on their recruitment</b><br/>     17   <b>campaign poster?</b><br/>     18   A. I don't know.<br/>     19   <b>Q. Did you consider it an honor?</b><br/>     20   A. I don't know.<br/>     21   <b>Q. How many associates reported</b><br/>     22   <b>to you at 825?</b><br/>     23   A. I believe it was 20 to 25.<br/>     24   <b>Q. How would you describe</b></p>  |
| <p style="text-align: right;">Page 127</p> <p>1   <b>Q. How soon after you assumed the</b><br/>     2   <b>manager position at 825 did you begin</b><br/>     3   <b>reporting to John Poplawski?</b><br/>     4   A. I don't remember.<br/>     5   <b>Q. Did you and Rick Downes have a</b><br/>     6   <b>good relationship?</b><br/>     7   A. I'd like to think so.<br/>     8   <b>Q. Did you and John Poplawski</b><br/>     9   <b>have a good relationship?</b><br/>     10   A. I'd like to think so.<br/>     11   - - -<br/>     12   (Whereupon, Exhibits McCants-7<br/>     13   and McCants-8 were marked for<br/>     14   identification.)<br/>     15   - - -<br/>     16   BY MS. BILENKER:<br/>     17   <b>Q. These are photographs of you,</b><br/>     18   <b>Mr. McCants. The first document, No. 7, is</b><br/>     19   <b>a document that Wawa has. And the second</b><br/>     20   <b>document, No. 8, is a document that you</b><br/>     21   <b>produced, a couple pages that you produced,</b><br/>     22   <b>which are pictures of what? Who was with</b><br/>     23   <b>you in these pictures?</b><br/>     24   A. My son.</p> | <p style="text-align: right;">Page 129</p> <p>1   <b>yourself as a manager at 825? How do you</b><br/>     2   <b>feel you performed as a manager?</b><br/>     3   A. My first year? It was my<br/>     4   first store manager job, first year. I<br/>     5   believe I did pretty well. Above average.<br/>     6   <b>Q. Well, your first year, you</b><br/>     7   <b>were only in the store a little over a</b><br/>     8   <b>year; right? Before you went on to 811;</b><br/>     9   <b>isn't that right?</b><br/>     10   A. Repeat that please.<br/>     11   <b>Q. You really were only managing</b><br/>     12   <b>825 for about a year before you were</b><br/>     13   <b>promoted to 811; isn't that right? It's</b><br/>     14   <b>2001.</b><br/>     15   A. It was anywhere from nine<br/>     16   months to a year, I believe.<br/>     17   <b>Q. So you believe you performed</b><br/>     18   <b>above average in that year?</b><br/>     19   A. Based on my evaluation. Based<br/>     20   on 1, 2, 3, 3 being the highest, I was<br/>     21   evaluated at 2-1/2.<br/>     22   <b>Q. Why don't we talk about your</b><br/>     23   <b>evaluation.</b><br/>     24   - - -</p> |

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| <p style="text-align: right;">Page 150</p> <p>1 A. Yes.<br/>     2 Q. My question is: After you got<br/>     3 this write-up, did you start working the<br/>     4 requisite 46.75 hours per week; yes or no?<br/>     5 A. Yes.<br/>     6 Q. Is it your testimony that your<br/>     7 time clock, the time records would indicate<br/>     8 that?<br/>     9 A. It should.<br/>     10 Q. And if they didn't?<br/>     11 A. I don't know if they didn't.<br/>     12 Q. Did you ever go back to the<br/>     13 system and edit your time to reflect the<br/>     14 46.75 hours when you, in fact, hadn't<br/>     15 worked 46.75 hours?<br/>     16 A. No.<br/>     17 Q. Did you do any other editing<br/>     18 of your hours going into the system and<br/>     19 changing hours that you worked?<br/>     20 A. The only time I did editing is<br/>     21 if I didn't clock in or the system was<br/>     22 down.<br/>     23 Q. Did you ever work more than 50<br/>     24 hours a week?</p>                                  | <p style="text-align: right;">Page 152</p> <p>1 problems.<br/>     2 Q. What if you had an excessive<br/>     3 shrinkage problem? Would you disagree with<br/>     4 that?<br/>     5 A. I don't remember.<br/>     6 Q. When you moved to 811 in<br/>     7 November, '01, this is after you didn't get<br/>     8 the promotion, were you glad?<br/>     9 A. Glad what?<br/>     10 Q. Were you glad you got that<br/>     11 store --<br/>     12 A. No.<br/>     13 Q. - 811? You didn't want to be<br/>     14 in 811?<br/>     15 A. I was going for store 840, the<br/>     16 gas store.<br/>     17 Q. And you didn't get the gas<br/>     18 store, but you testified you did get<br/>     19 promoted to 811?<br/>     20 A. Yes.<br/>     21 Q. Did you want to stay in 825 or<br/>     22 were you glad to have gotten 811?<br/>     23 A. I just kept working.<br/>     24 Q. So the answer is no?</p>  |
| <p style="text-align: right;">Page 151</p> <p>1 A. I don't remember.<br/>     2 Q. Did you ever put in very long<br/>     3 hours in your job managing 811? Did you<br/>     4 ever work - well, you don't remember if<br/>     5 you worked more than 50 hours a week. Did<br/>     6 you ever work 100 hours a week?<br/>     7 A. No.<br/>     8 Q. Did you ever work 80 hours a<br/>     9 week?<br/>     10 A. No.<br/>     11 Q. It's not unusual for managers<br/>     12 to work those kind of hours; isn't that<br/>     13 true?<br/>     14 A. I don't know.<br/>     15 Q. Going back to when you managed<br/>     16 825, did you have a shrinkage problem at<br/>     17 that store?<br/>     18 A. Don't remember.<br/>     19 Q. Would it be out of the<br/>     20 question if you did? If I told you you had<br/>     21 a shrinkage problem at that store, would<br/>     22 you disagree with that emphatically?<br/>     23 A. It's a possibility because the<br/>     24 type of store we run, we can have shrinkage</p> | <p style="text-align: right;">Page 153</p> <p>1 A. The answer is: I kept<br/>     2 working.<br/>     3 Q. Who worked for you at 811?<br/>     4 What were the names of your associates?<br/>     5 A. Christy Mulholland.<br/>     6 Q. She was your assistant<br/>     7 manager?<br/>     8 A. Yes. Sharon Young.<br/>     9 Q. What was her job?<br/>     10 A. I had two Sharons. One was a<br/>     11 CSL. The other one was a food service<br/>     12 manager.<br/>     13 Q. Which one is Sharon Young?<br/>     14 A. Food service manager. I<br/>     15 believe the last name was Young.<br/>     16 Q. The other Sharon had a sister<br/>     17 there. The food service manager was<br/>     18 black. Her name was Sharon. And then the<br/>     19 other Sharon was white. She had a sister<br/>     20 working there, too.<br/>     21 Q. You don't remember their last<br/>     22 names?<br/>     23 A. It's been a while.<br/>     24 Q. Well, they did work for you</p> |

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| <p style="text-align: right;">Page 158</p> <p>1 as your area supervisor?<br/>     2 A. Say that again.<br/>     3 Q. Joe Gallagher became your<br/>     4 supervisor after John Poplawski; correct?<br/>     5 A. Yes.<br/>     6 Q. And was that around January of<br/>     7 2002?<br/>     8 A. Yes.<br/>     9 Q. How would you characterize<br/>     10 your relationship with Joe Gallagher?<br/>     11 A. Not good.<br/>     12 Q. Why not?<br/>     13 A. His style of supervision was a<br/>     14 bully tactic type of style, intimidating.<br/>     15 When things were wrong in the store, it was<br/>     16 my fault. When they were correct, he took<br/>     17 credit. He'd pull people from my staff<br/>     18 without letting me know. When I asked are<br/>     19 there going to be any replacements, that's<br/>     20 your job. Changed my schedule without<br/>     21 notifying me. Degraded me in front of<br/>     22 customers. Give me orders in front of the<br/>     23 staff. Every time he came in there, it was<br/>     24 a situation where I had to prove myself</p>  | <p style="text-align: right;">Page 160</p> <p>1 being demoted at the time because of a<br/>     2 morale problem, well, when you take two of<br/>     3 my key people out of the store, there's<br/>     4 going to be a morale problem.<br/>     5 Q. Anything else?<br/>     6 A. I didn't feel any support. I<br/>     7 always felt I was on my own.<br/>     8 Q. Anything else?<br/>     9 A. Before the no smoking policy<br/>     10 indoor act, if the associates talked to him<br/>     11 about a morale problem was -- we really<br/>     12 didn't have nowhere to smoke. And I was<br/>     13 having health problems here, too, because I<br/>     14 would tell the staff the bathroom, we just<br/>     15 use bathroom to use the bathroom, you know,<br/>     16 for our bodily function. Not to smoke.<br/>     17 Because there is non-smokers in the store.<br/>     18 So I had to keep the non-smokers and the<br/>     19 smokers happy the best way I can. That was<br/>     20 brought to his attention as I was being<br/>     21 hard. Or when they have a policy that if<br/>     22 there's three or more people at the<br/>     23 register, you have to come out and help the<br/>     24 person that was ringing. I would state</p> |
| <p style="text-align: right;">Page 159</p> <p>1 where he would talk to the staff first and<br/>     2 then I was wrong, what they said was true,<br/>     3 and I always had to prove myself to him.<br/>     4 When I did the multi-store meeting, the<br/>     5 other managers came and said, you did a<br/>     6 great job conducting the meeting. He says<br/>     7 a comment in front of them, oh, yeah, he<br/>     8 got to get his store together. Very<br/>     9 intimidating.<br/>     10 Q. Anything else?<br/>     11 A. Never really spoke when he<br/>     12 came in the store, just gave directives the<br/>     13 moment he came in. It was my way or the<br/>     14 highway type of supervising.<br/>     15 Q. Anything else?<br/>     16 A. When I did have problems with<br/>     17 associates, it was brought to his attention<br/>     18 but nothing was done. That added to the<br/>     19 morale problem that they talked about. And<br/>     20 that was with the food services manager.<br/>     21 Q. So you were aware of a morale<br/>     22 problem before you left --<br/>     23 A. No. I was told after the fact<br/>     24 if they're claiming I'm being -- I was</p> | <p style="text-align: right;">Page 161</p> <p>1 that to some of them, we need help, come on<br/>     2 over, trying to enforce that policy. They<br/>     3 may have ran to Joe and said, oh, he's --<br/>     4 here's a morale problem because I'm asking<br/>     5 you to come over and help me with -- ring<br/>     6 up customers.<br/>     7 Q. Because you were asking<br/>     8 associates --<br/>     9 A. Yes.<br/>     10 Q. -- to come help you ring up<br/>     11 customers --<br/>     12 A. Yes.<br/>     13 Q. -- and you were --<br/>     14 A. Right. The policy is, if I<br/>     15 remember correctly, if you have three or<br/>     16 more customers at the register, then they<br/>     17 were supposed to come over and help, no<br/>     18 matter who you are. If you're a CSL, a<br/>     19 food service manager, an associate, you<br/>     20 come over to the register and help out.<br/>     21 Q. And did you do that?<br/>     22 A. Yes, I did.<br/>     23 Q. So you're saying the morale<br/>     24 problem developed after you asked them to</p>   |

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| <p style="text-align: right;">Page 182</p> <p>1 A. No.<br/>     2 Q. But this e-mail is addressed<br/>     3 to you; correct?<br/>     4 A. Yes.<br/>     5 Q. So did Joe Gallagher offer to<br/>     6 support you in rectifying the poor results<br/>     7 from the audit that Gail Skocik did of your<br/>     8 store?<br/>     9 A. I don't remember.<br/>     10 Q. Did Joe Gallagher create a<br/>     11 special cash rack for you for accommodating<br/>     12 your height? Did Joe approve that the<br/>     13 store that you worked in would be altered<br/>     14 to accommodate you for your height?<br/>     15 A. Don't remember.<br/>     16 Q. So you do not remember that?<br/>     17 A. I don't remember.<br/>     18 Q. Did Joe Gallagher go over<br/>     19 inventory loss with you, your paperwork and<br/>     20 the store?<br/>     21 A. I don't remember.<br/>     22 Q. Did Joe Gallagher visit your<br/>     23 store at least once a week?<br/>     24 A. He visited the store. I don't</p> | <p style="text-align: right;">Page 184</p> <p>1 remember.<br/>     2 BY MS. BILENKER:<br/>     3 Q. Where was this party?<br/>     4 MR. ABER: I think he just<br/>     5 testified he doesn't remember having<br/>     6 it.<br/>     7 MS. BILENKER: No. He said<br/>     8 that he does remember the pizza<br/>     9 party. He didn't remember getting<br/>     10 Joe's support for it.<br/>     11 BY MS. BILENKER:<br/>     12 Q. Where was the pizza party, Mr.<br/>     13 McCants? Was it in the store or in a<br/>     14 restaurant?<br/>     15 MS. BILENKER: I want to say<br/>     16 something and just comment on the<br/>     17 record here that Mr. McCants take an<br/>     18 unreasonably long time answering<br/>     19 questions, and that's sort of the<br/>     20 delay here that he must take at<br/>     21 least 30 seconds, sometimes a<br/>     22 minute, to answer questions, simple<br/>     23 questions, and that's sort of what's<br/>     24 prolonging things here, Mr. Aber.</p> |
| <p style="text-align: right;">Page 183</p> <p>1 know if it was once a week.<br/>     2 Q. Did you have a pizza party in<br/>     3 your store for your associates at store<br/>     4 811?<br/>     5 A. Yes.<br/>     6 Q. Did Joe Gallagher approve that<br/>     7 party, for you to hold that party?<br/>     8 A. Don't remember.<br/>     9 Q. Why did you have the party?<br/>     10 A. Safety.<br/>     11 Q. What about safety?<br/>     12 A. You had to go so many days<br/>     13 without having an incident.<br/>     14 Q. And so this was to commend<br/>     15 your associates for not having any injuries<br/>     16 for a certain period of time?<br/>     17 A. Yes.<br/>     18 Q. Do you have any reason to<br/>     19 believe that Joe Gallagher wouldn't have<br/>     20 supported you having a pizza party for your<br/>     21 associates to commend them for a good<br/>     22 safety record?<br/>     23 MR. ABER: Objection.<br/>     24 THE WITNESS: I don't</p>                            | <p style="text-align: right;">Page 185</p> <p>1 So I want the record to reflect<br/>     2 that. These are simple questions.<br/>     3 Was the pizza party at the store or<br/>     4 in a restaurant or somewhere else?<br/>     5 THE WITNESS: I believe it<br/>     6 was outside the store.<br/>     7 BY MS. BILENKER:<br/>     8 Q. Was it at Pizza Hut?<br/>     9 A. I believe so.<br/>     10 Q. Was Mr. Gallagher there?<br/>     11 A. I believe so.<br/>     12 - - -<br/>     13 (Whereupon, Exhibit McCants-12<br/>     14 was marked for identification.)<br/>     15 - - -<br/>     16 BY MS. BILENKER:<br/>     17 Q. I'm showing you an e-mail from<br/>     18 Joe Gallagher to you dated April 15, 2002.<br/>     19 Tell me when you're done reviewing it.<br/>     20 A. Finished.<br/>     21 Q. In this e-mail, doesn't it<br/>     22 show Mr. Gallagher notified you that store<br/>     23 associates who worked at 811 for you were<br/>     24 unhappy, that morale was not improving?</p>    |

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| <p style="text-align: right;">Page 186</p> <p>1 A. Based on this e-mail?</p> <p>2 Q. Yes.</p> <p>3 A. Yes.</p> <p>4 Q. You received this e-mail,<br/>5 didn't you? Are you denying that you<br/>6 received this e-mail?</p> <p>7 A. I don't remember receiving it.</p> <p>8 Q. Well, it's a pretty important<br/>9 e-mail. It's notifying you that the morale<br/>10 in your store is not improving. That<br/>11 associates are talking about leaving<br/>12 because of you and that you are the one who<br/>13 can turn it around. Would you agree that<br/>14 this is an important e-mail?</p> <p>15 A. It's important.</p> <p>16 Q. You don't recall getting it?</p> <p>17 A. No.</p> <p>18 Q. You don't recall any<br/>19 discussions that you had with Mr. Gallagher<br/>20 during the time that you managed 811 about<br/>21 morale, about low morale in the store?</p> <p>22 A. I don't remember other than<br/>23 the time we met on the 21st and the meeting<br/>24 I had with Mr. Gallagher and Mr. Stief.</p> | <p style="text-align: right;">Page 188</p> <p>1 areas that you needed support and training<br/>2 on in your store?</p> <p>3 A. No; I don't remember.</p> <p>4 Q. The program is really an<br/>5 effort to help managers in their stores in<br/>6 certain areas? To help managers improve?<br/>7 You don't recall the program at Wawa?</p> <p>8 A. No.</p> <p>9 Q. So this e-mail to you, you<br/>10 don't recall getting where Miss Skocik<br/>11 recommended and actually asked permission<br/>12 from Joe Gallagher, which she got, to have<br/>13 you participate in the program?</p> <p>14 A. No.</p> <p>15 Q. She set up a date with you<br/>16 that was convenient for you to come into<br/>17 the store and do an audit and review that<br/>18 with you. You don't recall that? You<br/>19 don't recall meeting with her at the store?</p> <p>20 A. I know she did an audit on the<br/>21 store but I don't remember meeting with her<br/>22 in reference to the Adopt-A-Store Program.</p> <p>23 Q. Well, if you don't focus on<br/>24 what it was called, she did meet with you</p> |
| <p style="text-align: right;">Page 187</p> <p>1 - - -</p> <p>2 (Whereupon, Exhibit McCants-13<br/>3 was marked for identification.)</p> <p>4 - - -</p> <p>5 BY MS. BILENKER:</p> <p>6 Q. Do you know who Gail Skocik<br/>7 is, Mr. McCants?</p> <p>8 A. Auditor.</p> <p>9 Q. She is an auditor for Wawa;<br/>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Did she offer you to<br/>13 participate in the Adopt-A-Store Program at<br/>14 Wawa? Do you remember participating in<br/>15 that program with her?</p> <p>16 A. No.</p> <p>17 Q. You don't recall that?</p> <p>18 A. No.</p> <p>19 Q. Do you know what the<br/>20 Adopt-A-Store Program is at Wawa?</p> <p>21 A. The Adopt-A-Store Program.</p> <p>22 Q. Well, where Gail Skocik would<br/>23 come into a store and go through a series<br/>24 of questions and fact findings to find</p>   | <p style="text-align: right;">Page 189</p> <p>1 in your store; right?</p> <p>2 A. I believe she did an audit on<br/>3 811.</p> <p>4 Q. And were you there during the<br/>5 audit?</p> <p>6 A. I think so.</p> <p>7 Q. You don't recall sending dates<br/>8 back to her as to what dates would work<br/>9 well for her to come into the store to meet<br/>10 with you to go over to review store<br/>11 procedures and policies?</p> <p>12 A. I don't remember.</p> <p>13 Q. You don't recall that Gail<br/>14 Skocik met with you at your store and the<br/>15 dates you had scheduled her to come, you<br/>16 were completely taken off guard and<br/>17 surprised to see her?</p> <p>18 A. I don't remember.</p> <p>19 Q. You don't recall that she —<br/>20 well, let's go back to what you do recall.<br/>21 You recall her doing an audit with you in<br/>22 your store; right?</p> <p>23 A. I believe it was her who did<br/>24 the audit.</p>   |

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| <p style="text-align: right;">Page 190</p> <p>1       <b>Q.</b> Someone did an audit from Wawa<br/>2 internally?<br/>3       A. Yes.<br/>4       <b>Q.</b> And went over various<br/>5 procedures with you; right?<br/>6       A. Before the audit or after the<br/>7 audit?<br/>8       <b>Q.</b> During the audit.<br/>9       A. No.<br/>10     <b>Q.</b> Before the audit?<br/>11      A. No.<br/>12     <b>Q.</b> After the audit?<br/>13      A. Yes.<br/>14     <b>Q.</b> So after the audit, someone<br/>15 internally from Wawa came over and reviewed<br/>16 procedures in the store with you?<br/>17      A. The audit itself? Is that<br/>18 what you're asking?<br/>19      <b>Q.</b> Yes. I'm talking about when<br/>20 you reviewed with Gail Skocik, but it may<br/>21 be someone else internally at Wawa, you<br/>22 believe it was Gail Skocik, where she<br/>23 reviewed store procedures with you,<br/>24 operating procedures? She went over things</p>   | <p style="text-align: right;">Page 192</p> <p>1       A. No.<br/>2       <b>Q.</b> Did you tell her you were<br/>3 going to put together a plan with your<br/>4 management team on implementing the<br/>5 improvements that she went over with you?<br/>6       A. I don't remember.<br/>7       <b>Q.</b> So you never put together a<br/>8 plan with your management team after<br/>9 meeting with Gail Skocik?<br/>10      A. I don't remember.<br/>11      <b>Q.</b> Do you know who Sharon Young<br/>12 is?<br/>13            MR. ABER: What was the last<br/>14 name?<br/>15            MS. BILENKER: Sharon Young.<br/>16 BY MS. BILENKER:<br/>17      <b>Q.</b> We talked about some Sharons.<br/>18      <b>Do you know Sharon Young?</b><br/>19            A. I believe that was the food<br/>20 service manager.<br/>21      <b>Q. Did you get along with her?</b><br/>22            A. In the beginning, as I stated<br/>23 earlier, we would bang head-on on policy as<br/>24 far as Sizzlis, putting Sizzlis out,</p>  |
| <p style="text-align: right;">Page 191</p> <p>1      <b>with you in the store?</b><br/>2      A. Relating to the audit?<br/>3      <b>Q. Relating to entering bills.</b><br/>4      <b>Related to writing off retail items.</b><br/>5      <b>Nothing?</b><br/>6      A. I think she mentioned<br/>7 something about write-offs.<br/>8      <b>Q. What about write-offs? That</b><br/>9      <b>you weren't doing them correctly?</b><br/>10     A. Make sure that the store is<br/>11 writing off food spoilage properly.<br/>12     <b>Q. And did that -- was that</b><br/>13     <b>instructive for you?</b><br/>14     A. That's what she went over<br/>15 after the audit.<br/>16     <b>Q. I'm asking you: Was that</b><br/>17     <b>instructive? Was that helpful to have her</b><br/>18     <b>go over that with you?</b><br/>19     A. Yes.<br/>20     <b>Q. Did she go over other things</b><br/>21     <b>with you, other discrepancies with you?</b><br/>22     A. Don't remember.<br/>23     <b>Q. Do you remember anything else</b><br/>24     <b>she went over with you?</b></p> | <p style="text-align: right;">Page 193</p> <p>1      because she's the food service manager, and<br/>2 when to put them out and when to come over<br/>3 and help at the register.<br/>4      <b>Q. What time did you get into</b><br/>5      <b>work?</b><br/>6      A. I believe it was 6:00.<br/>7      <b>Q. Is that considered the morning</b><br/>8      <b>rush at Wawa? A lot of people in the</b><br/>9      <b>store? A lot of customers?</b><br/>10     A. I believe so.<br/>11     <b>Q. When you reported to work,</b><br/>12     <b>what did you do? What was the first thing</b><br/>13     <b>you did when you got there?</b><br/>14     A. I did deposits or depends on<br/>15 if there was -- if we had proper help. If<br/>16 we had proper help, I would do deposits.<br/>17 If not, I would jump on the register.<br/>18     <b>Q. Why wouldn't you have proper</b><br/>19     <b>help?</b><br/>20     A. If somebody called off. If<br/>21 somebody is running late.<br/>22     <b>Q. What about if you were fully</b><br/>23     <b>staffed? Would you jump on the register</b><br/>24     <b>then or --</b></p> |

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| <p style="text-align: right;">Page 218</p> <p>1   on?</p> <p>2           MR. ABER: Objection.</p> <p>3   BY MS. BILENKER:</p> <p>4       Q. How about are there any other<br/>5   symptoms that you can think of that you<br/>6   believe are the result of your leaving<br/>7   Wawa?</p> <p>8       A. I guess it would be paranoia<br/>9   of upper management.</p> <p>10      Q. Can you explain what that<br/>11   means?</p> <p>12       A. Trusting my superiors.</p> <p>13      Q. How are your superiors at your<br/>14   current job? What are they like?</p> <p>15       A. They're okay, but I still have<br/>16   that paranoia because they're upper<br/>17   management.</p> <p>18      Q. Do you trust them?</p> <p>19       A. Not fully.</p> <p>20      Q. Did they do something in<br/>21   particular to make you not fully trust<br/>22   them?</p> <p>23       A. No.</p> <p>24      Q. Did anyone ever make any</p>   | <p style="text-align: right;">Page 220</p> <p>1   and Mr. Stief.</p> <p>2       Q. What did you say?</p> <p>3       A. I just mentioned that a<br/>4   comment was made.</p> <p>5       Q. Anything else?</p> <p>6       A. No.</p> <p>7       Q. You mentioned a comment was<br/>8   made but you didn't say, I believe I might<br/>9   have been discriminated against, or words<br/>10   to that effect, that you were discriminated<br/>11   against on the basis of your religion?</p> <p>12       A. No. Just that the comment was<br/>13   made.</p> <p>14      Q. And what was their response to<br/>15   you repeating that comment?</p> <p>16       A. I don't remember.</p> <p>17      Q. Did you ever mention that you<br/>18   are the victim of religious discrimination<br/>19   to Jim Shortall?</p> <p>20       A. I don't recall.</p> <p>21      Q. Did you ever complain to<br/>22   anybody else that you felt you were the<br/>23   victim of religious discrimination?</p> <p>24       A. Outside of my attorney and the</p> |
| <p style="text-align: right;">Page 219</p> <p>1   racially discriminatory statements to you<br/>2   while you worked for Wawa?</p> <p>3       A. When you say anybody.</p> <p>4       Q. Anybody. Any employee.</p> <p>5       A. I can't recall.</p> <p>6       Q. Did you ever tell John<br/>7   Poplawski that you felt you were the victim<br/>8   of race discrimination?</p> <p>9       A. No.</p> <p>10      Q. Did you ever tell Joe<br/>11   Gallagher that you felt you were the victim<br/>12   of race discrimination?</p> <p>13       A. No.</p> <p>14      Q. How about Mike Stief?</p> <p>15       A. I don't remember.</p> <p>16      Q. How about Jim Shortall?</p> <p>17       A. I don't remember.</p> <p>18      Q. Did you ever tell John<br/>19   Poplawski that you were the victim of<br/>20   religious discrimination?</p> <p>21       A. No.</p> <p>22      Q. How about Joe Gallagher?</p> <p>23       A. I believe I mentioned it at<br/>24   the last meeting I had with Mr. Gallagher</p> | <p style="text-align: right;">Page 221</p> <p>1   Department of Labor?</p> <p>2       Q. Yes.</p> <p>3       A. No.</p> <p>4       Q. How about outside your<br/>5   attorney and the Department of Labor on<br/>6   race?</p> <p>7       A. No.</p> <p>8       Q. Did you ever have an associate<br/>9   who asked you whether he or she could file<br/>10   a grievance under the Wawa grievance<br/>11   policy?</p> <p>12       A. I don't recall.</p> <p>13      Q. Aside from the comment you<br/>14   told us you made to John Poplawski about<br/>15   lack of diversity, were there any other<br/>16   comments that you made to anyone at Wawa<br/>17   about what you perceived as unfair<br/>18   treatment on the basis of race or religion?</p> <p>19       A. No.</p> <p>20      Q. Wouldn't being involved in<br/>21   church, as you said you are, be a positive<br/>22   attribute for a manager at Wawa?</p> <p>23       A. Yes.</p> <p>24      Q. Isn't it true that Wawa</p>  |

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| <p style="text-align: right;">Page 226</p> <p>1 I can think of is it was a<br/>2 performance issue. It's my<br/>3 understanding that in order to get a<br/>4 touch screen, your deli sales had to<br/>5 be up. So me being demoted was --<br/>6 if it was part of my performance,<br/>7 that store was scheduled for touch<br/>8 screen ordering, and I'd like to<br/>9 believe it was only for stores that<br/>10 reached a certain quota in deli<br/>11 sales.</p> <p>12 MR. ABER: We'll attach a copy<br/>13 of these?</p> <p>14 MS. BILENKER: Yes.<br/>15 BY MS. BILENKER:<br/>16 Q. That has to do with the store<br/>17 financials, getting touch screens?<br/>18 A. Deli sales.<br/>19 Q. Sales?<br/>20 A. Yeah; sales for deli.<br/>21 - - -<br/>22 (Whereupon, Exhibit McCants-15<br/>23 was marked for identification.)<br/>24 - - -</p>  | <p style="text-align: right;">Page 228</p> <p>1 problems?<br/>2 A. Usually with shrink, they have<br/>3 morale problems.<br/>4 Q. Let's separate out inventory<br/>5 problems. Do you know if these stores had<br/>6 low morale problems aside from inventory<br/>7 issues?<br/>8 A. Through the grapevine. Yeah.<br/>9 Hearing in passing that associates were not<br/>10 happy.<br/>11 Q. Which associates?<br/>12 A. Associates at store 801 and<br/>13 840.<br/>14 Q. And where did you hear that?<br/>15 A. Through other associates I<br/>16 used to work with at 840 and there was<br/>17 associates like -- it was associates I<br/>18 worked with at store 840.<br/>19 Q. And who were those associates?<br/>20 A. I can't remember the names.<br/>21 They were associates or one associate -- it<br/>22 was associates at store 801, but the one I<br/>23 can remember was Robin Blanton, who used to<br/>24 work at 801. She came to my store, which</p> |
| <p style="text-align: right;">Page 227</p> <p>1 BY MS. BILENKER:<br/>2 Q. Okay. In the Charge of<br/>3 Discrimination that you filed in the EEOC<br/>4 and the Delaware Department of Labor, I<br/>5 think we went over most of this, but you do<br/>6 allege at the bottom that other stores such<br/>7 as 801 and 840 have the same issues,<br/>8 meaning the same issues, I guess, as your<br/>9 store, 811, but the white managers were not<br/>10 demoted. What knowledge do you have that<br/>11 the store managers at 801 or 840 were not<br/>12 demoted? Do you have firsthand knowledge<br/>13 about that?<br/>14 A. Well, at the time I was<br/>15 demoted, these two managers had performance<br/>16 and inventory problems and they were still<br/>17 on board.<br/>18 Q. Did they have the same<br/>19 inventory problems as your store? Do you<br/>20 know?<br/>21 A. I don't know to what level,<br/>22 but inventory problems are inventory<br/>23 problems.<br/>24 Q. Did they have low morale</p> | <p style="text-align: right;">Page 229</p> <p>1 was 811 at the time.<br/>2 Q. And she's the associate who<br/>3 resigned from your store?<br/>4 A. I don't know if she resigned<br/>5 or not.<br/>6 Q. That's the same Robin Blanton<br/>7 who worked for you --<br/>8 A. There was a Robin Blanton that<br/>9 worked at store 811. I don't know if she<br/>10 resigned or not.<br/>11 Q. You're talking about the Robin<br/>12 Blanton who came from 801 to your store,<br/>13 told you about morale issues in 801?<br/>14 A. Yes.<br/>15 Q. You don't know about them<br/>16 firsthand. You know about them through<br/>17 Robin Blanton?<br/>18 A. And inventory problems.<br/>19 Q. I'm just talking about<br/>20 morale. I'm not talking about inventory<br/>21 problems.<br/>22 A. Okay. Morale for 801? Yes;<br/>23 through Robin Blanton.<br/>24 Q. Through anybody else or just</p>  |

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| <p style="text-align: right;">Page 230</p> <p>1   <b>through Robin Blanton?</b><br/>     2    A. Which store?<br/>     3    <b>Q. 801?</b><br/>     4    A. Robin Blanton, store 801. The<br/>     5 other associates, I don't remember.<br/>     6    <b>Q. You mean from 840 --</b><br/>     7    A. No; 801.<br/>     8    <b>Q. So there are other associates</b><br/>     9 <b>at 801 --</b><br/>     10 A. Yes.<br/>     11   <b>Q. -- who told you that 801 had a</b><br/>     12 <b>morale problem, but you don't remember</b><br/>     13 <b>their names?</b><br/>     14 A. That's correct.<br/>     15   <b>Q. How about at 840? You also</b><br/>     16 <b>testified you don't remember their names?</b><br/>     17 A. Store 840? I don't remember<br/>     18 their names.<br/>     19   <b>Q. And was that inventory issues</b><br/>     20 <b>that those people told you about or also</b><br/>     21 <b>morale problems?</b><br/>     22 A. Inventory and morale.<br/>     23   <b>Q. You also stated that two other</b><br/>     24 <b>black store managers have been demoted at</b></p> | <p style="text-align: right;">Page 232</p> <p>1   A. No. He told me he was<br/>     2 demoted.<br/>     3   <b>Q. Do you have knowledge as to</b><br/>     4 <b>whether he is still demoted or whether he</b><br/>     5 <b>has been repromoted?</b><br/>     6 A. No.<br/>     7   <b>Q. Do you know a Wawa employee</b><br/>     8 <b>named Rob?</b><br/>     9 A. Last name please?<br/>     10   <b>Q. You don't know his last name?</b><br/>     11 A. I know a lot of Robs.<br/>     12   <b>Q. Who worked for Wawa? An</b><br/>     13 <b>assistant manager?</b><br/>     14 A. There was Robert Bowden that I<br/>     15 worked with at 840.<br/>     16   <b>Q. He was at 840?</b><br/>     17 A. Yes.<br/>     18   <b>Q. You made a comment to John</b><br/>     19 <b>Poplawski about a lack of diversity. Did</b><br/>     20 <b>you ever complain about a lack of diversity</b><br/>     21 <b>to anyone else at Wawa?</b><br/>     22 A. I don't recall.<br/>     23 - - -<br/>     24 (Whereupon, Exhibit McCants-16)</p>  |
| <p style="text-align: right;">Page 231</p> <p>1   <b>816 and 801. What knowledge do you have</b><br/>     2 <b>that black store managers were demoted at</b><br/>     3 <b>816 or 801?</b><br/>     4   A. I was told personally by them<br/>     5 they were demoted.<br/>     6   <b>Q. Who are those people?</b><br/>     7   A. Rick Henry for store 816 and<br/>     8 store 801 was Matt Welch.<br/>     9   <b>Q. And what did Matt Welch tell</b><br/>     10 <b>you?</b><br/>     11 A. He told me he was demoted.<br/>     12   <b>Q. Did he tell you if it was</b><br/>     13 <b>voluntary?</b><br/>     14 A. No. He just told me he was<br/>     15 demoted.<br/>     16   <b>Q. So you don't know whether or</b><br/>     17 <b>not it was voluntary?</b><br/>     18 A. No.<br/>     19   MR. ABER: Objection.<br/>     20 BY MS. BILENKER:<br/>     21   <b>Q. What did Rick Henry tell you?</b><br/>     22 A. He was demoted.<br/>     23   <b>Q. Did he tell you he was</b><br/>     24 <b>promoted after being demoted?</b></p>   | <p style="text-align: right;">Page 233</p> <p>1   was marked for identification.)<br/>     2 - - -<br/>     3 BY MS. BILENKER:<br/>     4   <b>Q. Mr. McCants, I've marked as</b><br/>     5 <b>No. 16 the Initial Disclosures that you</b><br/>     6 <b>filed in this case or that your lawyer</b><br/>     7 <b>filed on your behalf. The first question,</b><br/>     8 <b>you were supposed to identify everyone you</b><br/>     9 <b>believe --</b><br/>     10   MR. ABER: Objection.<br/>     11 BY MS. BILENKER:<br/>     12   <b>Q. -- has discoverable</b><br/>     13 <b>information that you may use to support</b><br/>     14 <b>your claims. You've listed 29 people.</b><br/>     15 I've never seen a list like this before and<br/>     16 I'd like you to tell me who these people<br/>     17 are and what information they have to<br/>     18 support your claim of discrimination. What<br/>     19 evidence does your wife have of<br/>     20 discrimination claims? What knowledge does<br/>     21 she have?<br/>     22 A. She was at that meeting I had<br/>     23 with Mr. Gallagher and Mr. Stief.<br/>     24   <b>Q. Anything else?</b></p> |

1 ERRATA SHEET  
2  
3  
4

| PAGE | LINE        | CORRECTION  |
|------|-------------|---|
| 43   | 2,7,10      | <u>sheldton</u> should be <u>Shelton</u>  |
| 44   | 19          | '' '' ''  |
| 52   | 14,17,23,20 | '' '' ''  |
| 53   | 1,8,15      | '' '' ''  |
| 54   | 412,        | '' '' ''  |
| 55   | 2,15,20     | '' '' ''  |
| 56   | 23,         | '' '' ''  |
| 83   | 19,20       | '' '' ''  |
| 86   | 12,19       | '' '' ''  |
| 103  | 2           | '' '' ''  |
| 56   | 21          | Should be A. 840 <sup>2</sup> ; I believe it was Tom Grant, George Shelton, and George DeNuzio. |
| 56   | 22          | Q. Do you know anything about their qualifications or work history with WAWA?                   |
| 23   |             |   |
| 24   |             |   |